**Before the**
**Federal Communications Commission**
**Washington, DC 20054**

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| In the Matter of | ) | |
| | ) | |
| Cross-Ownership of Broadcast | ) | MM Docket No. 01-235 |
| Stations and Newspapers | ) | |
| | ) | |
| Newspaper/Radio Cross-Ownership | ) | MM Docket No. 96-197 |
| Waiver Policy | ) | |

**COMMENTS OF**
**THE NATIONAL ASSOCIATION OF BROADCASTERS**


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## Executive Summary

The National Association of Broadcasters ("NAB") submits these comments in response to the *Notice of Proposed Rulemaking* seeking comment on whether, and to what extent, the Commission should revise the newspaper/broadcast cross-ownership rule, which has barred since 1975 the ownership of a broadcast station and a daily newspaper in the same market. NAB again urges the Commission to eliminate the cross-ownership ban.

NAB initially emphasizes that the Commission's absolute prohibition on common ownership of newspapers and broadcast facilities in the same market has never been adequately justified. Since the early 1940's, the Commission has tried to identify specific abuses or concrete problems presented by newspaper ownership of broadcast outlets. Despite this effort spanning decades, the Commission has, however, consistently failed to establish the existence of any competitive or other harms arising from newspaper/broadcast cross-ownership. Faced with this lack of an evidentiary basis to justify any cross-ownership ban, the Commission, to warrant its 1975 decision adopting the rule, was forced to speculate about the limited, theoretical diversity gains that might follow from the rule's operation.

Given the absence of a competitive justification for the cross-ownership prohibition, and the wholly speculative nature of the diversity rationale for the ban, the Commission's analytical approach set forth in the *Notice* is fundamentally misdirected. The Commission's detailed request for comment on advertising and other related competition issues supposedly raised by newspaper/broadcast cross-ownership appears especially puzzling, if not irrelevant. As the Commission concluded in 1975 that it had no evidence of competitive harms, NAB doubts whether any basis exists for the *Notice* even to request comment on the economic harms of cross-ownership today, particularly in light of the greatly more competitive nature of the mass media marketplace in 2001. Moreover, given the entirely speculative nature of the diversity rationale for the cross-ownership ban when adopted, the burden of empirically justifying retention of the rule on diversity grounds 26 years later clearly lies with the Commission. To the extent that the *Notice* suggested that commenters supporting modification or repeal of the cross-ownership rule must bear the burden of demonstrating that the rule is no longer necessary, NAB asserts that the *Notice* is in error.

NAB also submits that the Commission will fail to meet its burden of establishing by empirical evidence that the cross-ownership ban has served the public interest by producing greater diversity of viewpoint in local media markets. The rule generally reflects an outmoded regulatory philosophy of promoting the maximum diversity of ownership at all costs, and was specifically premised on several faulty (or at least unproven) assumptions about the future development of the broadcast industry and the mass media marketplace, and the closeness of the connection between diversity of ownership and the availability of diverse ideas and viewpoints. The Commission's burden to justify retention of the cross-ownership rule by clear empirical evidence is only increased by the First Amendment implications of the ban, which, especially in light of recent regulatory changes, operates to disadvantage a single class of speakers. Fears reflected in the Commission's order adopting the cross-ownership rule that a combined newspaper/broadcast entity may be too persuasive, or have too great an impact, in the marketplace of ideas are not a legitimate basis under the First Amendment for banning common ownership of newspapers and local broadcast facilities.

But even beyond the Commission's past failure and continued inability to justify the cross-ownership ban empirically, countervailing considerations now make the case for eliminating the rule persuasive. Particularly given the growth of non-broadcast media and the recent liberalization or elimination of virtually all other broadcast multiple ownership rules, the strict ban on newspaper cross-ownership appears inconsistent and produces irrational results in the marketplace. The Commission has determined in other proceedings that media cross-ownership not only produces operating efficiencies, but also increases the availability and diversity of informational programming, thereby serving the public interest. If permitted, newspaper/broadcast combinations would similarly allow both newspapers and broadcasters, which are facing unprecedented competition in the digital environment, to maintain their financial viability and to strengthen their operations, especially in smaller markets. The cross-ownership rule also inhibits broadcast and newspaper entities from pooling resources and expertise to create new, innovative media services and outlets, including Internet and cable services. Because elimination of the cross-ownership ban should ultimately increase the news, information and programming options available to the public, NAB supports its repeal.

For the variety of reasons set forth in detail in NAB's comments, the newspaper/broadcast cross-ownership rule must be regarded as a backward-looking relic, reflecting a bygone media age in which the broadcast industry was dominated by only three networks offering a single channel of video programming each. Regardless of its merits when adopted in 1975, the cross-ownership ban seems anachronistic in today's digital environment and will certainly be archaic in tomorrow's interactive, multimedia environment.

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TO: The Commission

## COMMENTS OF THE NATIONAL ASSOCIATION OF BROADCASTERS

The National Association of Broadcasters ("NAB")[1] submits these comments in response to the Commission's *Notice of Proposed Rulemaking* in this proceeding.[2] The *Notice* sought comment on whether, and to what extent, the Commission should revise the newspaper/broadcast cross-ownership rule, which bars common ownership of a broadcast station and a daily newspaper in the same market. 47 C.F.R. § 73.3555(d). In particular, the *Notice* discussed the dramatic changes in the mass media marketplace since adoption of the cross-ownership rule in 1975, and inquired as to the relevance of these changes to the continued operation of the rule. The Commission also requested comment on a range of options, including eliminating the cross-ownership rule, retaining the rule, or modifying it in a variety of ways.

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[1] NAB is a nonprofit incorporated association of radio and television stations and broadcast networks. NAB serves and represents the American broadcasting industry.

[2] *Order and Notice of Proposed Rule Making* in MM Docket Nos. 01-235 and 96-197, FCC 01-262 (rel. Sept. 20, 2001) ("*Notice*").

NAB again urges the Commission to eliminate the newspaper/broadcast cross-ownership rule. As an initial matter, NAB emphasizes that this absolute prohibition on common ownership of newspapers and broadcast facilities in the same market has never been adequately justified. Despite several attempts commencing in the 1940's to identify actual abuses or concrete problems presented by newspaper ownership of broadcast outlets, the Commission has consistently failed to establish the existence of any competitive or other harms arising from newspaper/broadcast cross-ownership. Faced with this lack of an evidentiary basis to justify any cross-ownership ban, the Commission was forced to speculate about limited, theoretical diversity gains to warrant its 1975 decision adopting the rule.

Given the absence of a competitive justification for the cross-ownership prohibition, and the wholly speculative nature of the diversity rationale for the ban, the analytical approach set forth in the *Notice* is fundamentally misdirected. The Commission's detailed request for comment on advertising and other related competition issues supposedly raised by newspaper/broadcast cross-ownership appears particularly puzzling. As the Commission concluded in 1975 that it had no evidence of competitive harms, NAB wonders how there can even be a basis for requesting comment on the "economic harms" of cross-ownership today (*Notice* at ¶ 26), in light of the clearly more competitive nature of the mass media marketplace in 2001. Moreover, given the speculative nature of the diversity rationale for the cross-ownership ban when adopted, the burden of empirically justifying retention of the rule on diversity grounds 26 years later clearly lies with the Commission.

NAB submits that the Commission cannot meet its burden of establishing by empirical evidence that the ban has served the public interest by producing greater viewpoint diversity. The cross-ownership rule generally reflects an outmoded regulatory paradigm of promoting the maximum diversity of ownership at all costs, and was specifically premised on several faulty (or at least unproven) assumptions about the future development of the media marketplace and the directness of the connection between diversity of ownership and viewpoint diversity in local markets. The Commission's burden to justify retention of the cross-ownership ban by clear empirical evidence is only increased by the First Amendment implications of the rule, which operates to disadvantage a single class of speakers. Fears reflected in the FCC's order adopting the rule that a combined newspaper/broadcast entity may be too persuasive or have too great an impact in the marketplace of ideas are not a legitimate basis under the First Amendment for banning common ownership of local newspapers and broadcast facilities.

But even beyond the FCC's past failure and continued inability to justify the cross-ownership ban empirically, countervailing considerations now make the case for eliminating the rule persuasive. Particularly given the growth of non-broadcast media and the recent loosening or elimination of virtually all other broadcast multiple ownership rules, the strict ban on newspaper cross-ownership appears inconsistent and produces irrational results in the marketplace. Even more seriously, the rule likely operates to harm diversity in today's mass media market. The Commission has found in other proceedings that media cross-ownership not only produces operating efficiencies, but also increases the availability and diversity of informational programming, thereby serving the public interest. If permitted, newspaper/broadcast combinations would similarly allow both newspapers and broadcasters, which are facing unprecedented competition in the digital environment, to maintain their financial viability and to strengthen their operations, particularly in smaller markets. The cross-ownership rule also deters broadcast and newspaper entities from pooling resources and expertise to create new media services and outlets, such as online and cable news services. For all these reasons, the newspaper/broadcast cross-ownership ban must be regarded as a relic of a bygone media age, rather than a forward-looking rule appropriate to a competitive digital media environment, and NAB supports its elimination.

## I. Despite An Effort Spanning Decades, The Commission Has Never Established An Adequate Evidentiary Basis To Justify The Newspaper Cross-Ownership Prohibition.

### A. Since the 1940's, the Commission Has Tried and Failed to Identify Specific Abuses or Other Competitive Harms Arising from Common Ownership of Newspapers and Broadcast Outlets.

The Commission initially examined the question of newspaper ownership of broadcast stations in the late 1930's. The FCC's Engineering Department studied the issue and concluded in 1938 that the adoption of a general rule against cross-ownership "would run the hazard of working an injury to the services received by the public" because "no adequate survey" showed whether "as a class" newspaper-owned stations "furnished average, superior, or inferior service," whether they "have acquired or exercised any undue power," or whether they "have been guilty of any unfair practices, either editorially or with respect to advertisers."[3]

Despite the Engineering Department's conclusions and the opinion of the FCC's general counsel that the Commission lacked authority to exclude newspapers from broadcast ownership generally,[4] the Commission initiated in 1941 a major investigation into newspaper ownership of AM and FM radio stations. The Commission conducted hearings between July 1941 and February 1942, and it dispatched investigators to try to gather evidence of monopolized news

[3] Christopher H. Sterling, *Newspaper Ownership of Broadcast Stations, 1920-68,* Journalism Quarterly 227, 230-31 (Summer 1969).

[4] In 1937, FCC General Counsel Hampson Garry opined that the Commission did not have authority under existing law "to deny an application to a newspaper owner for radio facilities solely upon the ground that the granting of such application would be against public policy." Daniel W. Toohey, *Newspaper Ownership of Broadcast Facilities,* 20 Fed. Comm. B.J. 44, 47 (1966). The D.C. Circuit Court of Appeals agreed in a 1938 case, concluding that "no provision of statute or law . . . forbids broadcasting by the owner of a newspaper." *Tri-State Broadcasting Co. v. FCC,* 96 F.2d 564, 566 (D.C. Cir. 1938).

and biased information. The Office of Radio Research at Columbia University simultaneously conducted an analysis of programming content, comparing newspaper-owned and non-newspaper-owned stations. By the time the FCC closed its investigation, it had spent $250,000, heard over 50 witnesses, and compiled approximately 3,500 pages of testimony and 400 exhibits. *See* Toohey, at 49.

Despite the Commission's considerable efforts, no "substantial disparity" between newspaper-owned and non-newspaper-owned radio stations was found. J.F. Foley, *The Newspaper-Radio Decision*, 7 Fed. Comm. B.J. 11, 14 (1944). The investigation discovered no evidence of news distortion or biased information dissemination by newspaper-owned broadcasters. Toohey, at 49.[5] Moreover, several witnesses at the hearings agreed that a general rule excluding newspapers from becoming broadcast licensees would improperly limit freedom of the press. Foley, at 15.[6]

In 1944, the Commission dismissed the newspaper proceeding without adopting any "general rule with respect to newspaper ownership" of broadcast stations, "in the light of the record" and "the grave legal and policy questions involved." 9 Fed. Reg. 702 (Jan. 18, 1944). The Commission reached this conclusion despite the high percentage of radio stations controlled

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[5] FCC investigators did discover that, particularly in small towns, newspapers might favor their affiliated stations by certain practices, such as not printing the program schedule of a rival radio station. "Otherwise, Commission investigators found nothing of significance." Toohey, at 49.

[6] *Accord Stahlman v. FCC*, 126 F.2d 124, 127 (D.C. Cir. 1942) (in a decision rejecting a challenge to the FCC's jurisdiction to even conduct its newspaper investigation, the Court warned the FCC that its licensing power did not "embrace a ban on newspapers as such," which "would be in total contravention of that vital principle that whatever fetters a free press fetters ourselves").

by newspapers in the 1940's and despite the considerable number of cities in which the only newspaper was associated with the only radio station.[7]

Although the number and proportion of newspaper-owned broadcast stations declined significantly after 1950 (*see* Sterling, at 233), the Commission decided to revisit the issue of newspaper/broadcast cross-ownership in a rulemaking in the early 1970's. Like the inquiry of the 1940's, the Commission's lengthy proceeding of the 1970's failed to produce any evidence of actual abuses or competitive harms by common ownership of newspapers and broadcast outlets.[8] In the order adopting the newspaper/broadcast cross-ownership rule,[9] the Commission reviewed the studies submitted and found no evidence of "specific non-competitive acts" by newspaper-owned stations and no evidence of an effect on advertising rates charged by television stations as a result of newspaper ownership. *Second R&O* at 1072-73. The Commission also found no evidence that newspaper-owned stations had failed to serve the public interest or had even performed less well than other stations. *See id.* at 1073, 1075, 1078. To the contrary, the FCC's own study concluded that newspaper-owned television stations showed a

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**7** In 1941, 28.2% of AM radio stations were controlled by newspaper owners, and there were 111 cities in which the single newspaper was associated with the only radio outlet. Sterling, at 232; Foley, at 13. At this time, newspaper entities were also filing a very large percentage of applications for stations in the new FM service. *See* Sterling, at 231.

**8** And this failure was not from lack of trying. After receiving comments from about 200 parties in response to its original notice, the Commission requested further comments directed to the question of newspaper/television cross-ownership, and received an additional 50 sets of comments. Numerous studies were submitted addressing the effects of common ownership on competition and on station performance, the economic consequences of divestiture, and the multiplicity and diversity of media. The FCC also conducted a staff study comparing the programming of co-located newspaper-owned television stations with other television stations. Finally, the FCC held three days of hearings, at which all parties who requested time were allowed to speak. *See FCC v. National Citizens Committee for Broadcasting*, 436 U.S. 775, 784 (1978) ("*NCCB*").

**9** *Second Report and Order* in Docket No. 18110, 50 FCC 2d 1046 (1975) ("*Second R&O*").

"statistically significant superiority" over other television stations "in a number of program particulars."[10] Given its decades-long inability to identify any competitive harms or other specific ills arising from newspaper cross-ownership, the Commission would therefore ultimately be forced to justify its newspaper ownership restrictions on other grounds entirely.

### B. The Commission Attempted to Justify the 1975 Cross-Ownership Rule with a Wholly Speculative Diversity Rationale.

Given the lack of any competitive concerns warranting limitations on newspaper cross-ownership, the Commission was forced to rely on diversity to justify its 1975 adoption of the cross-ownership ban. *See, e.g., Second R&O* at 1049, 1079, 1080. But an examination of the Commission's decision reveals the speculative, unsubstantiated nature of this diversity rationale. For example, when discussing whether to apply the cross-ownership ban retroactively, as well as prospectively, the Commission admitted that the "*mere hoped for* gain in diversity" stemming from application of the rule "is not enough" to justify its retroactive application, and that the "*theoretical* increase in . . . diversity which *might* follow" from the rule's application did not generally warrant divestiture of existing combinations. *Id*. at 1078, 1983 (emphasis added).[11] Beyond the entirely "theoretical" nature of the diversity gains that "might" follow from a cross-ownership ban, the Commission also acknowledged that these gains (if any) would likely be "small."[12] Moreover, despite the admittedly theoretical nature of the Commission's diversity

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[10] *Id*. at 1078 n. 26. Specifically, the Commission found that co-located newspaper-owned television stations programmed 6% more local news, 9% more local non-entertainment, and 12% more total local programming including entertainment than did other television stations. *Id*. at 1094, Appendix C.

[11] *See also id*. at 1074 (retrospective rules "require[] a demonstration of more than just theory").

[12] *See id*. at 1076 (although applying the cross-ownership rule to radio, as well as television, despite the greater number of radio facilities was not "urgent," the Commission determined that even this "smaller gain" in diversity was "worth pursuing"); and 1080 n. 30 ("even a small gain in diversity" can be basis for cross-ownership restriction). Any gains in diversity stemming from

rationale for adopting the cross-ownership rule, the Commission has not shown – or even seriously attempted to establish – whether the ban has, during the past 26 years, actually produced the "hoped for" gains in diversity.

Given the absence of any competitive basis for prohibiting newspaper cross-ownership, and the entirely speculative and unsubstantiated nature of the FCC's diversity rationale for adopting the rule, the time has clearly come for the Commission to do more than assert that its strict cross-ownership ban does more than "*possibly*" enhance "diversity of viewpoints." *NCCB*, 436 U.S. at 786 (emphasis added). Indeed, the Commission's failure to justify adequately its adoption and retention of the newspaper cross-ownership rule has even tempted some observers to impute illegitimate motives to the Commission.[13] Because the "Commission's sustained inability to provide a legitimate rationale for continuing to enforce" the cross-ownership ban has "invite[d] the question whether the rule serves" a "politically expedient" but "statutorily or

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a ban on cross-ownership would also likely be modest because, as the Commission itself noted, combination owners already tended to operate their newspapers and broadcast outlets separately, with "separate editorial and reportorial staffs." *Id*. at 1089.

[13] Observers at the time and since have drawn connections between the FCC's decision to institute its newspaper proceeding of the 1940's and newspaper publishers' opposition to President Franklin Roosevelt and the New Deal. *See, e.g.*, Toohey, at 47; Foley, at 12. More recent commenters have thought that the "push for cross-ownership rules" in the 1970's may have been motivated, at least in part, by the desire of political leaders "to limit the power of an adversarial press." Lorna Veraldi, *Carpooling on the Information Superhighway: The Case for Newspaper-Television Cross-Ownership*, 8 St. Thomas L. Rev. 349, 354 (1996). *See also* Robert Corn-Revere, *New Technology and the First Amendment: Breaking the Cycle of Repression*, Hastings Comm. & Ent. L.J. 247, 333-34 (Fall 1994) (describing the "well-documented efforts of the Nixon White House to use the FCC and other institutions," including the Justice Department's Antitrust Division, "to intimidate" the various media). Claims of an illicit governmental purpose were also made in a case involving a legislative prohibition placed on the FCC to prevent the agency from extending existing temporary waivers of the newspaper cross-ownership rule. *News America Publishing, Inc. v. FCC*, 844 F.2d 800, 810 (D.C. Cir. 1988) (holding this prohibition, which affected only a single publisher, to be unconstitutional).

constitutionally illegitimate" function,[14] it behooves the Commission in this proceeding to either provide a sufficient evidentiary basis to justify the rule or to eliminate it. For the reasons set forth in detail below, NAB not only believes that the Commission will be unable to justify the cross-ownership ban empirically, but "countervailing considerations" now make the case for eliminating the rule persuasive. *NCCB*, 436 U.S. at 786 (the "absence of persuasive countervailing considerations" was cited in justifying the FCC's pursuit of even "small" diversity gains by means of cross-ownership rule).

## II. Given The Lack Of An Evidentiary Basis For The Cross-Ownership Rule, The *Notice*'s Analytical Approach Is Misdirected.

In light of the Commission's decades-long inability to demonstrate a competitive justification for a newspaper cross-ownership ban, and the wholly speculative nature of the diversity rationale for the rule, the analytical approach set forth in the *Notice* is fundamentally misdirected. Given the ever increasing competitiveness of the mass media marketplace, and the Commission's continuing failure since 1975 to attempt to substantiate its diversity speculations, the Commission has no basis for even inquiring about many of the issues in the *Notice*.

### A. The *Notice*'s Emphasis on Competition Concerns Is Particularly Misplaced.

As discussed in detail in Section I., the Commission has failed since the 1940's to establish the existence of any competitive harms arising from newspaper/broadcast cross-ownership.[15] The *Notice*'s detailed requests for comment on advertising and other related

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[14] Affidavit of J. Gregory Sidak in MM Docket 98-35 at 63 (filed July 21, 1998). In a sworn affidavit on behalf of the Newspaper Association of America, Mr. Sidak, a research fellow in law and economics at the American Enterprise Institute and a former FCC Deputy General Counsel, concluded that an economic analysis supported abolition of the newspaper cross-ownership rule.

[15] *See NCCB*, 436 U.S. at 786 (FCC did not find that newspaper/broadcast combinations had failed to "serve the public interest" or were "harmful to competition," but instead "justified" the cross-ownership ban "by reference" to its "policy of promoting diversification").

competition issues supposedly raised by newspaper cross-ownership therefore seem especially puzzling, if not irrelevant. As the Commission concluded in 1975 that it had no evidence of competitive harms, NAB wonders how there can even be a basis for requesting comment on the "economic harms" of cross-ownership today (*Notice* at ¶ 26), particularly in light of the greatly more competitive nature of the mass media marketplace in 2001.

The tremendous growth in the number and variety of mass media outlets, and the concomitant decline in the dominance of traditional broadcasters, in the past two decades has been documented on many occasions.[16] NAB will attempt only a brief summary of these changes here. In 1975, there were only 7,785 radio stations and 952 television stations licensed in the United States. *Notice* at ¶ 9. By September 30, 2001, the Commission had licensed 13,012 radio stations, 1686 full power television stations, 2,212 low power stations and 424 Class A television stations. FCC News Release, *Broadcast Station Totals as of September 30, 2001* (Oct. 30, 2001). Perhaps even more significantly, in 1975 the affiliates of the three national commercial television networks enjoyed a prime time audience share of 95%, while today, according to the Commission, the prime time audience share of all commercial television stations (the affiliates of the seven networks and independent stations) has dropped to 61%. *Notice* at ¶ 9. This decline in the position of traditional broadcasters has directly resulted from the growth of new outlets in the media marketplace, particularly cable television systems, Direct Broadcast

[16] *See, e.g.*, Separate Statement of Commissioner Michael K. Powell in MM Docket No. 98-35, *1998 Biennial Review Report*, FCC 00-191 (rel. June 20, 2000); Comments of Tribune Company in MM Docket No. 98-35 at 22-51 (filed July 21, 1998); Comments of Newspaper Association of America in MM Docket No. 98-35 at 31-55 (filed July 21, 1998).

Satellite ("DBS"), and other multichannel video program distributors, which provide dozens (if not hundreds) of channels of programming to approximately 80% of all television households.[17]

As NAB documented in 1998, the growth of media outlets in individual markets has also been impressive. At that time, NAB examined the number of available media outlets in each television market, finding, *inter alia*, that the average market had 12.4 television stations, 84.1 commercial radio stations, and 18.3 newspapers that reached 1,000 or more in circulation (13.6 of which were published within the market and 2.9 of which reached a minimum of 5% penetration).[18] The growth in cable television has also expanded the number of news sources and outlets available to consumers in local markets, as numerous national (*e.g.*, CNN, MSNBC, CNBC, C-SPAN, Fox News Channel) and local or regional cable programming services have flourished.[19] And as Chairman Powell has stated, cable should not be dismissed as a source of local programming in local markets; most cable systems offer community PEG channels and many air local school sporting events.[20]

In just the past three years, furthermore, consumer use of the Internet has grown dramatically. According to NAB's 1998 Media Outlet Report, only 23.4 million households

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**17** The Spring 2001 Home Technology Monitor Ownership Report prepared by Statistical Research, Inc. estimated that 20.9% of all television households nationwide remained broadcast-only homes.

**18** *See* Comments of NAB in MM Docket No. 98-35, Appendix A, *Media Outlets by Market-Update* (filed July 21, 1998) ("Media Outlet Report"). The average market also had a 23.6% penetration of weekly newspapers and 10.2 national magazines that reached a 5% penetration.

**19** For example, cable services, such as Newschannel 8 in the Washington, D.C. area and Chicagoland Television News in the Chicago area, provide 24-hour local news to viewers.

**20** *See* Separate Statement of Commissioner Michael K. Powell in MM Docket No. 98-35, *1998 Biennial Review Report*, FCC 00-191 (rel. June 20, 2000) (asserting that cable should not be rejected "as a viable medium for local content," in part because systems are franchised locally and "local community services" can be extracted by local regulators "as a condition of receiving" a franchise).

were online in 1998, but by 2005, 68.4 million households, or 63% of all American homes, are expected to be online.[21] Internet households are already the majority, as 53% of all households now use a home computer to go online,[22] and over 72% of Americans currently have Internet access.[23] Nearly half of Americans currently use the Internet to obtain news specifically, and among people younger than 45, 60% use the Internet for news.[24] Clearly, the competitive landscape in the mass media marketplace has significantly altered since 1975 due to the greater number of broadcast stations and networks and the development and spread of technologies and services that did not even exist at that time.

NAB additionally notes that the overall impact of the recent consolidation in the broadcast industry may be less dramatic than commonly assumed. For example, the *Notice* (at ¶

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[21] *Veronis Suhler Releases 15th Annual Communications Industry Forecast*, PR Newswire (Aug. 6, 2001).

[22] Statistical Research, Inc., Spring 2001 Home Technology Monitor Ownership Report at 38 (also noting that about 8% of households have been added to the Internet each year since 1996).

[23] Alec Klein, *Internet Use Seems to Cut into TV Time*, Washington Post at E01 (Nov. 29, 2001) (citing UCLA Internet Report 2001).

[24] *Internet Grows as News Source*, abcNEWS.com (Oct. 17, 2000). Indeed, online journalists now have their own professional association, the Online News Association, with more than 700 members, including professional news writers, producers, designers, editors and photographers who produce news for the Internet and other digital delivery systems. *See* www.journalists.org. Beyond its growth as a news source generally, the Internet's role in national and local political affairs is also steadily growing. *See, e.g.*, Ben White, *The Campaign on the Web*, Washington Post at A07 (May 28, 2000) (reporting on innovative use of Internet by congressional candidates, including a candidate's interactive website that allowed visitors to post questions at any time and have the candidate answer them personally); Kevin McDermott, *The Web Snares More Candidates Than Ever This Year*, St. Louis Post-Dispatch at A1 (July 17, 2000) (in Missouri alone in the 2000 election season, more than 80 political candidates actively campaigned on the Web, from those for U.S. Senate and governor to local candidates for sheriff); Lesley Rogers, *Finding Candidates' Spending Reports Can Be Done with a Point, Click*, Wisconsin State Journal at 1B (Sept. 7, 2000) (voters in Dane County, Wisconsin can access the campaign finance reports of candidates for county office via Internet).

13) discussed in some detail the consolidation since 1996 in the radio industry, but a study attached to NAB's comments shows that a large number of commercial radio stations either remain "standalones," or are part of local duopolies, in their respective markets. *See* NAB, *Independent Radio Voices in Radio Markets* (Nov. 2001), attached hereto ("Radio Voices Study"). In the ten largest Arbitron markets, for instance, 25.6% of the commercial radio stations are standalones, and an additional 13.6% of the stations are in local duopolies. *Id*. In a number of smaller market groupings, the percentages of standalone stations and those in local duopolies are even higher and, in some market groups, approach 50%. *Id*.[25] Thus, recent consolidation within sectors of the broadcast industry cannot obscure the growth in competition between the ever-increasing number of broadcast outlets[26] and between broadcasting and various newer media and technologies.

Given the dramatic changes in the mass media marketplace since 1975, competitive concerns – which could not justify adoption of the cross-ownership rule 26 years ago – clearly cannot warrant its retention today. The Commission's long list of detailed questions pertaining to various competition issues accordingly serves little purpose. For example, the *Notice* (at ¶ 26) specifically inquired about advertising rates and whether rates for newspaper/broadcast combinations are significantly higher than rates for separately owned newspapers and broadcast

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[25] For instance, in markets 11-25, nearly half (49.4%) of the commercial radio stations are standalones (28.5%) or are part of a local duopoly (an additional 20.9%). Similarly, 46.4% of the commercial radio stations in markets 26-50 fall in these categories. Overall, more than 40% of all commercial stations in Arbitron markets are either standalone or duopoly stations within their respective markets. Radio Voices Study at 1.

[26] *See, e.g*, R. Ekelund, Jr., G.S. Ford and T. Koutsky, *Market Power in Radio Markets: An Empirical Analysis of Local and National Concentration*, 43 J. Law & Econ. 157 (2000) (finding little support for the hypothesis that increased concentration in radio market has lead to collusive conduct and market power in the radio industry).

stations. In the *Second R&O*, however, the Commission expressly found no evidence showing "an effect on rates attributable to newspaper ownership." *Id*. at 1073. In light of the growth in the number of broadcast and other outlets since 1975, and the relative decline in the position of broadcasters in the mass media marketplace, NAB questions what basis the Commission has for believing that "evidence showing that advertising rates for newspaper/broadcast combinations are significantly higher" could even exist. *Notice* at ¶ 26. Indeed, evidence clearly showing the *contrary* was submitted to the Commission in its 1998 biennial review of the newspaper cross-ownership rule.[27] Similarly, the *Notice* (at ¶ 52) asked if structural regulations such as the newspaper cross-ownership rule "remain[ed] necessary to maintain sufficiently competitive local advertising markets." The Commission concluded that the rule was not "necessary" for that purpose in 1975, so *a fortiori* it cannot be necessary today. In sum, the Commission has no grounds for placing the burden on commenters to produce evidence relating to competition concerns when such concerns (1) were not (and could not have been) the basis for the rule's adoption in 1975, and (2) cannot be regarded as anything but chimerical in the greatly more competitive mass media marketplace of 2001.

NAB also emphasizes that the Commission cannot, by implying the existence of entirely illusory competition problems, minimize its responsibility to revise its ownership rules, including the newspaper cross-ownership ban, to reflect the dramatic changes in the media marketplace. Courts have, as a matter of general administrative law, expressly held that "changes in factual

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[27] A July 1998 study by Economists Incorporated of over 1400 daily newspapers provided no indication that cross-owned newspapers charged higher advertising prices than other newspapers. This study also showed that the level of concentration of newspaper and broadcast advertising revenues had *decreased* markedly from 1975 levels. Economists Incorporated, *Structural and Behavioral Analysis of the Newspaper-Broadcast Cross-Ownership Rules*, attached as Appendix B to Comments of the Newspaper Association of America in MM Docket No. 98-35 (filed July 21, 1998).

and legal circumstances may impose upon the agency an obligation to reconsider a settled policy or explain its failure to do so." *Bechtel v. FCC*, 957 F.2d 873, 881 (D.C. Cir. 1992) ("*Bechtel I*").[28] In the context of newspaper/broadcast cross-ownership specifically, the Commission has in fact previously acknowledged its obligation "to give recognition to the changes which have taken place [in the broadcast industry] and see to it that its rules adequately reflect the situation as it is, not was." *Second R&O* at 1075. And as made clear above, the broadcast industry no longer dominates the mass media marketplace as in 1975, but faces continually greater competition from other service and content providers.[29]

But even beyond the Commission's general "duty to evaluate its policies over time," especially if "changes in factual and legal circumstances" occur, *Bechtel I*, 957 F.2d at 881, Section 202(h) of the 1996 Telecommunications Act directs the Commission to review all of its ownership rules biennially to determine if they "are necessary in the public interest as the result of competition." Pub. L. No. 104-104 § 202(h), 110 Stat. 56 (1996). This section also requires the Commission to "repeal or modify any regulation it determines to be no longer in the public interest." *Id*. Thus, the Commission has an explicit statutory duty to reexamine the newspaper cross-ownership rule, in light of competitive changes in the marketplace, to determine whether its retention serves the public interest. NAB submits that the unwarranted assumption in the *Notice* that the rule continues to address serious competition issues ignores the Commission's

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**28** *Accord Geller v. FCC*, 610 F.2d 973, 980 (D.C. Cir. 1979) (cable television rules originally implemented to facilitate enactment of new copyright legislation could not continue to be adhered to once that "predicate disappear[ed]," absent a showing that the rules served the public interest in some other manner).

**29** NAB additionally observes that the media marketplace is exponentially more competitive now than in the 1940's, when the Commission expressly declined to adopt any newspaper cross-ownership rule. *See* Toohey, at 47 (in 1942, FCC estimated that 45.8% of total broadcast service was accounted for by newspaper-owned or affiliated stations); *supra* note 7.

conclusion that competitive concerns could not justify the rule in 1975, and merely further obscures the Commission's clear duty under Section 202(h) to reconsider rules no longer warranted under current marketplace conditions.

**B. The Commission Bears the Burden of Substantiating with Empirical Evidence that the Cross-Ownership Rule Has Actually Produced the "Hoped For" Diversity Gains.**

As described in detail above, the cross-ownership rule was, in essence, a regulatory "leap of faith." In the absence of evidence that adoption of the rule would in fact enhance diversity, the Commission in 1975 "mere[ly] hoped" that "gain[s] in diversity" would result from the rule's operation. *Second R&O* at 1078. Especially because the FCC's bases for adopting the cross-ownership rule were so weak, the Commission cannot, after 26 years, continue to rely on speculative hopes and theories to justify the cross-ownership rule, but must now produce evidence establishing that the rule has actually enhanced diversity and that any diversity gains are great enough to outweigh the costs and burdens of the rule. *See id.* at 1076, 1080 n. 30 (recognizing that any gains in diversity might be small).

Indeed, after 26 "years of experience" with the cross-ownership rule, any reviewing court would expect the Commission to be able to produce "evidence" indicating that the rule "achieves" the diversity "benefit[] that the Commission attribute[d] to it." *Bechtel v. FCC*, 10 F.3d 875, 880 (D.C. Cir. 1993) ("*Bechtel II*") (court invalidated a FCC criterion for licensing broadcast applicants because, after 28 "years of experience with the policy," the Commission had "no evidence to indicate that it achieves even one of the benefits that the Commission attributes to it"). Although in 1975 it may arguably have been appropriate to defer to the predictive judgment of the Commission on the diversity issue, "[t]here comes a time when reliance on unverified predictions begins to look a bit threadbare." *Id*. Given the "concededly speculative nature of its analysis" when adopting the cross-ownership rule, and its failure over 26 years to "seriously examine[]" the "speculative" reasoning "advanced in support of the rule[]," the Commission must, to sustain the rule now, empirically demonstrate the benefits of the rule or repeal it. *Quincy Cable TV, Inc. v. FCC*, 768 F.2d 1434, 1455, 1457 (D.C. Cir. 1985) (court invalidated cable must carry rules because the FCC had, in 20 years after rules' original promulgation, never substantiated with empirical evidence the speculative assumptions underlying the rules).

NAB, moreover, emphasizes it is the Commission that bears the burden of justifying retention of the rule by establishing that it has lead to greater diversity of viewpoints.[30] Specifically, to sustain the rule, the Commission must demonstrate that (1) harm has occurred in markets where grandfathered newspaper/broadcast combinations still exist; and (2) the breaking up of existing combinations when transferred or assigned after 1975 produced greater diversity of viewpoints in local markets.[31] Especially given that "First Amendment rights" are implicated by the cross-ownership ban (*see* Section III. below), the Commission cannot "continue[] to rely on wholly speculative and unsubstantiated assumptions," but must "bear the burden" of "sustain[ing] its assertion that [the cross-ownership] rule is both necessary and important." *Quincy*, 768 F.2d at 1458-59. To the extent that the *Notice* suggested that commenters

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**30** *See Quincy*, 768 F.2d at 1455 (where both the existence of a problem and the "beneficial effects" of an agency's response to it are "susceptible of some empirical demonstration, the agency must do something more than merely posit the existence" of the problem).

**31** The mere fact that the operation of the cross-ownership rule has caused existing combinations to be broken up (or has prevented the formation of an unknown number of new combinations) cannot simply be *assumed* to benefit the public interest. As discussed in Section III. below, the assumption that "51 licensees are necessarily better than 50" has been discredited, and the Commission must now demonstrate how the public benefits from the addition of a $51^{st}$ separate voice in a market. In addition, an assumption that more independent owners are always better than fewer fails to take into account the benefits that can flow from consolidation. *See infra* Section IV.

supporting modification or repeal of the rule must bear the burden of demonstrating that the rule is no longer "necessary," NAB submits that the *Notice* is in error.[32]

## III. The Commission Cannot Meet Its Burden Of Justifying The Cross-Ownership Ban On Diversity Grounds.

NAB believes that Commission will fail to meet its burden of empirically demonstrating that the cross-ownership ban has served the public interest by producing greater viewpoint diversity and therefore is both "necessary and important." *Quincy*, 768 F.2d at 1458. The cross-ownership rule generally reflects an outdated regulatory philosophy of promoting maximum diversity of ownership at all costs, and was specifically premised on several faulty (or at the least unproven) assumptions about the future development of the media marketplace and the closeness of the connection between diversity of ownership and viewpoint diversity in local markets. The First Amendment implications of the cross-ownership restrictions, which have been recognized since the 1940's, only increase the burden that the Commission bears in attempting to justify retention of the ban.

### A. The Cross-Ownership Rule Reflects an Outmoded Regulatory Paradigm.

Along with the radio/television cross-ownership (or "one-to-a-market") rule, the newspaper/broadcast cross-ownership rule represents the culmination of the "more is always better" theory of broadcast ownership regulation. This regulatory approach regarded the "proper objective" of the ownership rules to be "the maximum diversity of ownership that technology

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[32] For example, the *Notice* (at ¶ 15) began by asking whether the cross-ownership rule "continue[d] to be necessary to protect" diversity. NAB points out that the Commission has never established that the rule was "necessary" to protect diversity, but that the Commission, in adopting the rule, merely hoped that it would produce further gains, however small, in diversity. *See also Notice* at ¶ 52 (asking whether the rule was "necessary in its current form to protect our diversity goals").

permits in each area."[33] Under this approach, "60 different licensees" in a market were regarded as "more desirable than 50," and even 51 were thought to be "more desirable than 50," because "there is no optimum degree of diversification." *First R&O* at 311-12. The Commission's adoption of the newspaper cross-ownership rule similarly reflected this regulatory approach. *See Second R&O* at 1076 (although admitting that "there already is more diversity" in radio "than in television," the Commission nonetheless applied the newspaper cross-ownership ban to radio because "we wish to encourage still greater diversity").[34]

Even at the time of the Commission's adoption of the one-to-a-market and newspaper cross-ownership rules, some observers recognized the flaws in the "maximization at all costs" philosophy. As FCC Commissioner Robert Wells stated, "if the result of having 60" rather than 50 licensees, "is a deterioration in the service of 20 outlets, we have hardly accomplished our goal."[35] Since the 1970's, moreover, it has become clear that the Commission's "'more is better' and 'diversity at any cost' policies, like most panaceas, worked much better in theory than in practice."[36] Perhaps in recognition of the flaws with its regulatory approach, the Commission itself in 1989 made clear that it no longer believed that maximizing diversity of ownership was

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**33** *First Report and Order* in Docket No. 18110, 22 FCC 2d 306, 311 (1970) ("*First R&O*") (adopting the one-to-a-market rule preventing any single entity from owning more than one broadcast facility in the same market).

**34** *See also Second R&O* at 1077 (rejecting suggestions that newspaper cross-ownership restrictions should not apply automatically to UHF television stations because Commission wished "to encourage even greater diversity than we have now").

**35** Dissenting Statement of Commissioner Robert Wells to *First R&O*, 22 FCC 2d at 337 (arguing that Commission adopted one-to-a-market rule with insufficient analysis, no showing of public benefit, and little appreciation of the possible consequences on broadcast service).

**36** David M. Hunsaker, *Duopoly Wars: Analysis and Case Studies of the FCC's Radio Contour Overlap Rules*, 2 CommLaw Conspectus 21, 22 (1994) (blaming the FCC's policies for the radio industry's serious economic trouble of the early 1990's).

its primary objective. *See Second Report and Order* in MM Docket No. 87-7, 4 FCC Rcd 1741, 1742 (1989) (in relaxing the one-to-a-market prohibition, the Commission stated that "economic competition and diversity of programming and viewpoints are not the only goals, and diversity of ownership is not the only consideration, in the licensing of broadcast stations in the public interest").[37]

In sum, the goal of maximizing ownership diversity, on which the newspaper cross-ownership rule rests, can no longer be assumed to advance the public interest. Because Congress and the Commission have, either implicitly or explicitly, rejected the "maximization at all costs" regulatory approach in liberalizing many of the other broadcast ownership rules, the Commission cannot rely on the outmoded assumption that greater numbers of independent owners are always more desirable than fewer to justify retention of the newspaper cross-ownership rule. If the rule is to be retained in any form, then the Commission must demonstrate that it advances the public interest in some other manner. *See Geller,* 610 F.2d at 979-980 (because the original "predicate" for certain cable television rules no longer obtained, the Commission was required to determine whether the rules still retained "a nexus with the public interest").

### B. The Specific Premises Underlying the Cross-Ownership Ban Are Either Erroneous or, at Best, Unproven.

Beyond generally reflecting an outmoded regulatory paradigm, the cross-ownership rule was specifically premised on faulty assumptions about the future development of the broadcast industry and the mass media marketplace, and the efficacy of structural regulations as a means of promoting viewpoint diversity. An examination of the *Second R&O* (at 1075) reveals that the

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[37] In the 1996 Telecommunications Act, Congress similarly demonstrated that it did not believe diversity of ownership should be the primary consideration governing broadcast ownership regulation. *See* H. R. Rep. No. 204, 104th Cong., 2d Sess. 55 (1996) (noting need "to depart from the traditional notions of broadcast regulation" and to eliminate "arbitrary limitations on broadcast ownership," which "are no longer necessary" in a competitive video market).

Commission decided to adopt the cross-ownership rule in "recognition" of "the changes which have taken place" in the broadcast industry. Specifically, the Commission noted that the "number of channels open for filing has vastly diminished," and that in many communities there may be only a few or even just one channel remaining to be licensed. *Id*. Under such circumstances, the Commission thought that the owners of local newspapers should not be permitted to obtain these last remaining licenses. *Id*.

Twenty-six years later, however, it has become clear that the Commission's assumptions about future licensing in the broadcast industry were incorrect. As set forth above (at 10), the number of radio and television stations has increased dramatically since 1975. Given the Commission's particular concerns about the availability of diverse news and public affairs programming (*see Notice* at ¶ 17), this increase in the number of broadcast outlets must be regarded as significant. Empirical studies have demonstrated that, as competition between television stations increases, their commitment to local news also increases. For example, one study demonstrated that an increase in the number of television stations in a market was positively related to the minutes of local news, as well as the minutes of all local programming, provided by stations in that market.[38] Another study similarly showed that, as competition (measured by Nielsen ratings) intensified between television newscasts in local markets, the resources (both expenditures and staff) allocated to these newscasts increased.[39] A very recent study confirmed that the number of competitors in the local television news market significantly increased between 1989 and 1998 in large, medium and small markets, and that stations in large,

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**38** John C. Busterna, *Television Station Ownership Effects on Programming and Idea Diversity: Baseline Data*, 1 J. Media Econ. 63, 65-66 (Fall 1988).

**39** S. Lacy, T. Atwater and X. Qin, *Competition and the Allocation of Resources for Local Television News*, 2 J. Media Econ. 3, 11 (Spring 1989).

medium and small markets responded to this increased competition by increasing the number of newscasts they aired each day.[40] The unanticipated growth in the number of, and increased competition between, broadcast stations since 1975 should therefore have alleviated the Commission's concerns about the "vastly diminished" channels available for licensing and the need to require "any new licensing" to "add to local diversity" by categorically excluding newspaper owners, which were the bases for adoption of the cross-ownership rule. *Second R&O* at 1075.[41]

But even beyond the Commission's erroneous assumptions about prospects for growth in the number of broadcast outlets and increased competition in the local news arena, the Commission obviously did not anticipate the rise of new multichannel video programming distributors (including cable and DBS) and the concomitant decline in the position of broadcasters in the mass media marketplace. The growth of these new technologies has certainly provided more programming to viewers, and has also increased the diversity of program types offered.[42] And in 1975 clearly no one had even remotely considered the development of the

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**40** Angela Powers, *Toward Monopolistic Competition in U.S. Local Television News*, 14 J. Media Econ. 77, 82 (2001).

**41** The Commission's diversity concerns should also be assuaged by the evidence indicating that newspaper and broadcast interests, even when commonly owned, are often operated separately. *See Second R&O* at 1089 (noting importance of separate operation in decision not to require widespread divestiture of existing newspaper/broadcast combinations). *See also* Comments of NAB in MM Docket No. 98-35, Appendix B, Bond & Pecaro, *A Study to Determine Certain Economic Implications of Broadcasting/Newspaper Cross-Ownership* at 5 (filed July 21, 1998) (finding that owners of grandfathered newspaper/broadcast combinations "have almost invariably chosen to keep operations of these businesses separate").

**42** *See* August Grant, *The Promise Fulfilled? An Empirical Analysis of Program Diversity on Television*, 7 J. Media Econ. 51 (1994) (demonstrating that, as the number of channels of television programming increases, the diversity of program types offered also increases). As further discussed above, the rise of cable and DBS has not only undermined broadcasters' formerly preeminent position in providing prime time video entertainment, but these

Internet and the World Wide Web, which allows consumers anywhere to access "content" (including news and political information) as "diverse as human thought." *Reno v. ACLU*, 521 U.S. 844, 870 (1997). Thus, the underlying assumption of the cross-ownership rule – that it would enhance diversity by preventing combinations between broadcasters and newspaper owners, the only two actors of any significance in the media marketplace – has proved to be unfounded, as new media technologies and programming services have been developed and accepted by consumers. In light of these developments, it is doubtful whether the Commission could establish that the ban on local newspaper owners remains "necessary to ensure that consumers of news and information have access to diverse ideas and viewpoints." *Notice* at ¶ 15.

The newspaper cross-ownership ban is, moreover, based on the assumption that structural rules regulating local ownership directly enhance viewpoint diversity. *See Second R&O* at 1079 (stating that the FCC's "primary concern" in ownership questions is with "diversity of ownership as a means of enhancing diversity in programming service"). In the *Notice* (at ¶ 17), however, the Commission noted that the "relationship between ownership diversity and viewpoint diversity is the subject of considerable debate," and sought comment on the "competing theories of the relationship between ownership diversity and viewpoint diversity." As an initial matter, NAB points out that, after 26 years of experience with the newspaper cross-ownership rule, and fifty years of experience with local ownership rules generally, the Commission should have more than mere "theories" about the connection between its ownership rules and diversity of viewpoint. *See Bechtel II*, 10 F.3d at 880. Indeed, the mere fact that the Commission, after

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multichannel video programming providers also offer competition to broadcasters – and greater diversity to consumers – by providing national and local news and other local programming. *See supra* at 10-11.

decades of imposing structural ownership regulation, is still seeking evidence on this basic point suggests that such evidence may not exist. And if, as the existing literature indicates, the connection between ownership and diversity of viewpoint remains unproven, then the Commission will be hard pressed to justify on diversity grounds its current flat ban on newspapers owning broadcast stations in the same market.

"While all rules limiting ownership tend to increase the total number of owners," the Commission has acknowledged that "'such rules do not necessarily guarantee greater diversity of program content or advance the welfare of individual viewers.'"[43] The Commission has also expressly recognized that consolidation in the broadcast industry may well lead to greater "diversity of entertainment formats and programs."[44] A previous NAB study of consolidation in the radio industry in fact showed that "one immediate result" of consolidation after the 1996 Telecommunications Act raised local radio ownership limits was "an increase in the number of formats available to the American public."[45]

Other observers and scholars have expressed similar doubts that the Commission's ownership rules generally achieve their purported goal of promoting content or viewpoint

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[43] *Notice of Proposed Rulemaking* in Gen. Docket No. 83-1009, 95 FCC 2d 360, 393-94 (1983) (*quoting Amendment of Part 76, Subpart J, Section 76.501 of the Commission's Rules and Regulations Relative to Elimination of the Prohibition on Common Ownership of Cable Television Systems and National Television Networks*, 47 Fed. Reg. 39212 at ¶ 24 (Sept. 7, 1982)).

[44] *Further Notice of Proposed Rulemaking* in MM Docket Nos. 91-221 and 87-8, 10 FCC Rcd 3524, 3551 (1995). *See also, e.g.*, Peter Steiner, *Program Patterns and Preferences, and the Workability of Competition in Radio Broadcasting*, 66 Q. J. Econ. 194 (1952) (demonstrating that a consolidated owner of radio stations within a market may be more likely to program minority taste formats than if stations in the market were separately owned).

[45] Comments of NAB in MM Docket No. 99-25, Attachment B, *Format Availability After Consolidation* (filed August 2, 1999) (finding that the average number of formats offered in all Arbitron surveyed markets increased from 9.7 in Spring 1996 to 9.8 in Spring 1997 to 10.0 in Fall 1998).

diversity. For example, one study, after reviewing the existing economic literature on the effect of market structure on diversity, concluded that "[m]ultiplicity of ownership is a blunt instrument, and . . . possibly a counterproductive one" for insuring that "many points of view are heard."[46] Because the "great majority of those who operate broadcast stations" do not seem to be driven "by the desire to mold public opinion and attitudes," these "independent owners, all with identical economic incentives, may produce relatively uniform products." Haddock and Polsby, at 349. Chairman Powell himself has agreed with this assessment, stating that he failed "to see how ownership restrictions in themselves do much to promote the goal" of providing antagonistic viewpoints. Admittedly, "[d]ifferent owners have different perspectives, but they probably have more in common as commercial interests than not, for each must compete for maximum audience share to remain profitable." While the "ownership class may include different people," it is "hard to see how that ensures" they "are different in their viewpoints."[47]

Another researcher, after reviewing the history of FCC ownership regulation and the related scholarly literature, has similarly concluded that "[t]here is no evidence" that the Commission's ownership policies have "in fact resulted in greater (or less) diversity of content" within the commercial sectors of the U.S. broadcasting industry.[48] With regard to the FCC's limits on multiple local ownership specifically, "[t]here has never been substantiation that joint ownership would affect broadcasters' programming choices in local markets." Compaine, at

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[46] David Haddock and Daniel Polsby, *Bright Lines, the Federal Communications Commission's Duopoly Rule, and the Diversity of Voices*, 42 Fed. Comm. L.J. 331, 348-49 (1990).

[47] Separate Statement of Commissioner Michael K. Powell in MM Docket No. 98-35, *1998 Biennial Review Report*, FCC 00-191 (rel. June 20, 2000).

[48] Benjamin Compaine, *The Impact of Ownership on Content: Does It Matter?*, 13 Cardozo Arts & Ent. L.J. 755, 763 (1995).

763, 770-71.[49] The Commission's assumption that promoting greater ownership diversity in local markets by excluding newspaper owners would enhance "diversity in programming service" therefore gains little, if any, support from the existing literature. *Second R&O* at 1079.

The Commission has stated on innumerable occasions that the purpose of its ownership rules is "to foster a diversity of viewpoints,"[50] and, indeed, has made clear that "diversity of ownership *per se* is not an end in itself," but merely "a means to achieve the public interest goal of promoting" viewpoint diversity. *Second Report and Order* in MM Docket No. 87-7, 4 FCC Rcd 1741, 1743 (1989). Absent a demonstrable link between the ownership of broadcast stations and the local availability of diverse ideas and viewpoints, the Commission arguably has no independent, diversity-based interest in who owns particular media outlets in local markets. In sum, because the correlation between ownership and viewpoint diversity is attenuated at best, the Commission's diversity rationale for categorically excluding local newspaper owners from controlling any broadcast outlet appears insufficient to sustain the cross-ownership ban. Indeed, the inability to demonstrate this crucial nexus between its ban on newspaper cross-ownership and viewpoint diversity in local markets could prove fatal to any effort by the Commission to uphold the rule against future legal challenge.[51]

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**49** This article also set forth a "hierarchy of factors affecting broadcast content," and concluded that the least important factor was whether groups or independent owners controlled individual stations. Compaine, at 777-78.

**50** *Report and Order* in MM Docket Nos. 91-221 and 87-8, 14 FCC Rcd 12903, 12911 (1999).

**51** *See Lutheran Church-Missouri Synod v. FCC*, 141 F.3d 344, 356 (D.C. Cir. 1998) (in finding the FCC's equal employment opportunity rules to be unconstitutional, court noted that Commission failed to "introduce a single piece of evidence in this case linking low-level employees to programming content"); *Lamprecht v. FCC*, 958 F.2d 382 (D.C. Cir. 1992) (sex-based preference in broadcast comparative licensing process was invalidated when FCC introduced no evidence supporting a link between female ownership and programming of any particular kind).

### C. The First Amendment Implications of the Cross-Ownership Ban Only Increase the FCC's Burden in Justifying Retention of the Rule.

NAB also believes that the Commission will be unable to meet the burden of justifying retention of the cross-ownership rule due to the First Amendment implications raised by the ban. These concerns only increase the Commission's burden to demonstrate empirically that the cross-ownership rule "is both necessary and important" because it substantially enhances viewpoint diversity. *Quincy*, 768 F.2d at 1458.

The Commission has indicated that the cross-ownership ban may be justified on the grounds that broadcast (especially television) stations and newspapers differ from other media because they are uniquely influential, given the public's reliance on them for news and information.[52] However, fears that a combined newspaper/broadcast entity may be too persuasive or have too great an impact in the marketplace of ideas are not a legitimate basis under the First Amendment for banning common ownership of newspapers and local broadcast facilities. To the extent that the cross-ownership rule is based on concerns about the effectiveness or influence of the speech of combined newspaper/broadcast entities, then the rule raises serious constitutional questions.[53]

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[52] *See, e.g., Notice* at ¶¶ 14, 17, 53 (contending that the goal of viewpoint diversity has been particularly important in context of newspaper/broadcast cross-ownership due to reliance the public places on these media, especially television and newspapers, and suggesting that broadcast stations and newspapers have been viewed as the "gatekeepers" in the local marketplace of ideas); *Second R&O* at 1081, 1083 (stating that only newspaper and broadcast stations provide information about issues of local concern, and that even a radio station cannot be considered the "equal" of a newspaper or a television station as a "source for news").

[53] The order adopting the cross-ownership ban does in fact reflect considerable anxiety about the influence and power that daily newspapers and broadcast stations possess in the marketplace of ideas and how other media, and other media combinations, cannot compare with the impact of broadcast/newspaper combinations. *See Second R&O* at 1077, 1078, 1079 n. 28, 1081, 1083, 1085, 1089.

As courts have made clear, the "relative influence or effectiveness of expression is not an apt consideration in determining freedom of speech."[54] Indeed, "to account for such factors would result in constitutional security only for ineffective or inconsequential expression," which would effectively stand the First Amendment on its head. Lively, at 600. *See also Telecommunications Research and Action Center v. FCC*, 801 F.2d 501, 508 (D.C. Cir. 1986) (court stated it was "unwilling to endorse an argument that makes the very effectiveness of speech the justification for according it less first amendment protection").

The Supreme Court has also rejected contentions that the state may restrict the speech of powerful or influential entities or persons because such speech may be too persuasive or may dominate public debate. In *First National Bank of Boston v. Bellotti*, 435 U.S. 765 (1978), the Supreme Court found unconstitutional a Massachusetts statute that restricted business corporations from making certain contributions or expenditures for the purpose of influencing the vote on referendum proposals. The State had argued that the views of wealthy and powerful corporations would "drown out other points of view" and exert "an undue influence on the outcome" of referenda votes. *Id*. at 789. The Court rejected these contentions, stating that "the fact that advocacy may persuade the electorate is hardly a reason to suppress it," as the Constitution protected both "eloquent" and "unconvincing" expression equally. *Id*. at 790. The Court added that the "potential impact" of the State's arguments on the news media was "unsettling," as it implied that the government could "control the volume of expression by the wealthier, more powerful corporate members of the press in order to 'enhance the relative

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[54] Donald Lively, *Modern Media and the First Amendment: Rediscovering Freedom of the Press*, 67 Wash. L. Rev. 599, 600 (1992).

voices' of smaller and less influential members." *Id*. at 791 n. 30 (*quoting Buckley v. Valeo*, 424 U.S. 1, 49 (1976)).[55]

Similarly, in *Buckley*, the Court found unconstitutional certain limits placed on the expenditures that individuals and groups could make to support political candidates. The Court expressly concluded that "the concept that government may restrict the speech of some elements of our society in order to enhance the relative voice of others is wholly foreign to the First Amendment." *Buckley*, 424 U.S. at 48-49.

Supreme Court precedent therefore makes clear that the Commission cannot retain the cross-ownership rule on the grounds that combined newspaper/broadcast entities would exert "an undue influence," or would "drown out other points of view," in the local marketplace of ideas. *Bellotti*, 435 U.S. at 789. Nor can the Commission constitutionally maintain the prohibition on local newspaper/broadcast cross-ownership "in order to enhance the relative voice" of other media, entities or persons in local markets. *Buckley*, 424 U.S. at 49.[56] In sum, concerns that newspaper/broadcast combinations may be overly persuasive or effective speakers are not a constitutionally legitimate basis for retaining a flat ban against local newspaper owners.[57]

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**55** The *Bellotti* court also noted that it had "rejected a similar notion" with regard to newspapers specifically in *Miami Herald Publishing Co. v. Tornillo*, 418 U.S. 241 (1974) (First Amendment held to prohibit government from requiring a newspaper to make space available at no cost for a reply from a candidate whom the newspaper criticized). *Bellotti*, 435 U.S. at 791 n. 30.

**56** NAB is not suggesting that the Commission has no legitimate interest in whether a sufficient diversity of voices exists in local markets, especially if the Commission can empirically demonstrate a connection between a diversity of voices (*i.e*., owners) and diversity of viewpoints. But it is the *availability* of an adequate number of voices in a market that is the Commission's concern. The "relative" influence or impact of these various voices in the mass media marketplace, or the degree to which consumers freely choose to rely (or not rely) on them, cannot properly be the Commission's concern.

**57** Indeed, retaining the cross-ownership rule in an effort to restrict the power of particular speakers' ideas would approach clearly impermissible content regulation.

NAB also believes that the cross-ownership ban may be constitutionally questionable as it operates to disadvantage a single class of speakers. In 1975, the Commission and the courts admittedly seemed unconcerned with the exclusion of local newspaper owners, but only because the rule "treat[ed] newspaper owners in essentially the same fashion as other owners of the major media of mass communications were already treated under the Commission's multiple-ownership rules." *NCCB*, 436 U.S. at 801. After all, "owners of radio stations, television stations, and newspapers *alike* are . . . restricted in their ability to acquire licenses for co-located broadcast stations." *Id*. (emphasis added). Obviously, this rationale for permitting the exclusion of newspaper owners from the local broadcast market no longer applies. Under current FCC rules, entities other than newspapers may, for example, acquire in the same local market multiple radio stations, multiple radio stations in combination with a television station, and, in some markets, multiple television stations.[58] Clearly, the FCC's ownership rules in 2001 fail to "treat newspaper owners in essentially the same fashion as the owners" of other media entities, *id*., thereby raising questions as to the constitutionality of the rule not addressed in 1975.

It has been recognized since the 1940's that generally restricting newspaper owners from becoming broadcast licensees raised serious First Amendment implications.[59] Given the "crucial societal role" played by the media "as a powerful antidote" to governmental "abuses of power,"[60]

**58** Moreover, owners of nonbroadcast media, such as cable systems, are free to acquire co-located newspapers, which broadcasters are prevented from acquiring.

**59** *See Stahlman*, 126 F.2d at 127 (FCC's broadcast licensing authority does not extend "to embrace a ban on newspapers as such, for in that case it would follow that the power to exclude exists also as to schools and churches; and if to these, the interdict might be applied wherever the Commission chose to apply it").

**60** *Austin v. Michigan Chamber of Commerce*, 494 U.S. 652, 668 (1990) (in upholding an exemption for media companies from a generally applicable state regime of political campaign reform, the Court explained that the press "serves and was designed to serve as a powerful antidote to any abuses of power by governmental officials and as a constitutionally chosen means the Commission should be wary of continuing decades later to retain a rule that singles out a particular sector of the media for disparate treatment. In deference to these long-standing First Amendment concerns, the Commission should eliminate the newspaper/broadcast cross-ownership rule unless it can now demonstrate empirically what it has consistently been unable to establish since the 1940's – "that cross-ownership is harmful *per se*." Toohey, at 54. For all the reasons set forth above, NAB doubts that the Commission will be able to make such a showing.

## IV. Persuasive Countervailing Considerations Now Exist For Eliminating The Cross-Ownership Rule.

Even beyond the Commission's past failure and likely continuing inability to justify the newspaper cross-ownership ban empirically, "countervailing considerations" now make the case for eliminating the rule "persuasive." *NCCB*, 436 U.S. at 786. The strict ban on local newspaper cross-ownership not only produces irrational results in the marketplace, but also operates to harm diversity in a variety of ways in today's mass media market.

### A. The Cross-Ownership Rule Produces Irrational Results in Today's Marketplace.

Even a cursory examination of how the rule banning local newspaper cross-ownership actually operates in the market reveals its irrationality, especially in light of the growth of cable and other new media. For example, a cable operator with a monopoly position in the local multichannel video programming distribution market, and gatekeeper control of the "essential pathway" into consumers' homes,[61] could also own a local daily newspaper, but the licensee of a radio station with a very small percentage of the local advertising market and audience listening share could not do so. Indeed, it seems remarkable that the Commission has approved the

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for keeping officials elected by the people responsible to all the people whom they were selected to serve").

[61] *Turner Broadcasting System, Inc. v. FCC*, 512 U.S. 622, 656 (1994).

merger of behemoths such as America Online and Time Warner, which resulted in the combination of the dominant Internet service provider with a leading cable and multimedia company, but apparently still has qualms about a local newspaper publisher owning a single broadcast station of any sort.

The cross-ownership rule also operates irrationally because it treats all newspapers in the same rigid manner. For instance, the rule forbids the common ownership of a broadcast facility whose signal reaches suburban areas (or even a neighboring community) and a newspaper published in such an outlying area, even though the newspaper's circulation and advertising revenues within the overall service area of the broadcast facility are extremely limited. The categorical ban draws no distinction between a major metropolitan newspaper with very large circulation and advertising revenues, and a suburban or other newspaper in an outlying area with a limited advertising base and a small and geographically narrow circulation.

Moreover, virtually all of the other broadcast and cable ownership rules have been liberalized by the Commission or Congress in recent years.[62] Given the competitive changes in the mass media marketplace since 1975, and the more recent loosening of the FCC's restrictions affecting the ownership of other media outlets, the FCC's retention of its strict ban on cross-ownership by local newspapers appears increasingly irrational and arbitrary. *See, e.g., Cincinnati Bell Telephone Co. v. FCC*, 69 F.3d 752, 768 (6th Cir. 1995) (finding that FCC's structural separation rules impacted the "ability" of Bell Operating Companies "to compete" in

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**62** In the 1996 Telecommunications Act, Congress, *inter alia*, eliminated the national radio ownership restrictions, significantly raised the local radio ownership limits, and raised the national television ownership cap. Congress also removed the restriction on common ownership of broadcast networks and cable systems. Since 1996, the Commission has substantially relaxed the radio/television cross-ownership rule, the television duopoly rule, and the dual network rule. Further relaxation of the cable horizontal and vertical ownership rules is also currently under consideration. *See Further Notice of Proposed Rulemaking* in CS Docket Nos. 98-82 and 96-85, MM Docket Nos. 92-264, 94-150, 92-51 and 87-154, FCC 01-263 (rel. Sept. 21, 2001).

an "ever-evolving" marketplace by affording them "disparate treatment," and that the FCC's failure "to give a reasoned explanation" of this disparate treatment, especially in light of a 14-year "delay in determining whether to rescind" the rules, constituted arbitrary and capricious decision-marking).[63]

### B. The Cross-Ownership Rule Operates to Harm Diversity in a Variety of Ways.

#### 1. The Commission Has Recognized the Public Interest Benefits of Group Ownership in Other Contexts.

In earlier ownership proceedings, the Commission has expressly recognized the public interest benefits flowing from joint ownership of media entities. In rulemakings liberalizing the local radio and the radio/television cross-ownership rules, for example, the Commission determined that "combinatorial efficiencies derived from common ownership" of broadcast outlets "in local markets were presumptively beneficial and would strengthen the competitive standing of combined stations," which "would enhance the *quality of viewpoint diversity* by enabling such stations to invest additional resources in programming and other service benefits provided to the public."[64] Previous Commission decisions to loosen its ownership restrictions have relied on studies explicitly showing that "group-owned stations spend a larger percentage of their budgets on news and overall programming than independent stations" and that group-

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**63** *See also ALLTEL Corporation v. FCC*, 838 F.2d 551, 561 (D.C. Cir. 1988) (finding FCC rule on costs of local exchange carriers to be arbitrary and capricious because it relied "on too many questionable assumptions" and because the FCC had made no showing that the "abuses" that the rule purportedly addressed did in fact exist).

**64** *In re Golden West Broadcasters, Memorandum Opinion and Order*, 10 FCC Rcd 2081, 2084 (1995) (emphasis added). *See also Report and Order* in MM Docket Nos. 91-221 and 87-8, 14 FCC Rcd 12903, 12930 (1999) (allowing local television duopolies "can contribute to programming and other benefits such as increased news and public affairs programming and improved entertainment programming, and, in some cases, can ensure the continued survival of a struggling station").

owned stations may "air more informational programming than non-group-owned stations."[65] A recent study has, moreover, confirmed that group ownership in the broadcast industry can achieve operating efficiencies without producing any significant increase in broadcasters' market power. This empirical study of profits and concentration in the radio industry specifically found that "radio station groups achieve efficiencies relative to stand-alone stations" and that "[t]hese efficiencies are achieved through group ownership without a corresponding increase in market power" of radio broadcasters generally. Ekelund, *et al*., at 181.

In sum, previous studies and FCC decisions have established that "programming and other" public interest benefits flow from the "efficiencies derived from common ownership of radio and television stations in local broadcast markets." *Golden West*, 10 FCC Rcd at 2084. Assuming that at least some of these same efficiencies may be derived from common ownership of newspapers and broadcast facilities, then the retention of the strict cross-ownership ban will adversely impact both the "competitive standing" of these media outlets and the "quality of viewpoint diversity" in local markets. *Id*.

**2. Newspaper/Broadcast Combinations May Produce a Variety of Public Interest Benefits.**

**a. Elimination of the Cross-Ownership Rule Will Allow Both Newspapers and Broadcasters to Strengthen Their Operations and Services in an Extraordinarily Competitive Environment.**

Traditional media, including broadcasters and newspapers, face unprecedented competition in today's mass media marketplace, and these competitive pressures will only increase in the digital, interactive environment of the future. Television stations have already lost significant audience share to cable and DBS (*see supra* 10), and radio broadcasters now face

[65] *Second Report and Order* in MM Docket No. 87-7, 4 FCC Rcd 1741, 1748 (1989) (relaxing radio/television cross-ownership rule).

competition from new satellite radio services.[66] Many television stations, especially in smaller markets, are also struggling to pay for the transition to digital broadcasting.[67] These digital transition costs and a number of other factors – including a decline in the compensation payments made by networks to affiliated stations and the weakening economy and advertising market – have combined to squeeze "profits in the smaller markets . . . like never before."[68] Even in areas such as news where local television broadcasters have traditionally dominated, fewer viewers are watching local news, and this drop in viewership seems due at least in part to competition from other local news sources.[69]

Daily newspapers are also facing unprecedented competitive pressures. According to a recent report by the Newspaper Association of America, the penetration rates of all traditional news media, including newspapers, television and radio, have declined due to the rise in the use

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[66] *See, e.g.*, Neil Irwin, *XM Raises the Baton*, Washtech.com (Sept. 8, 2001) (XM Satellite Radio, Inc., which just launched nationwide, is the "first company to offer satellite radio, which some analysts expect will transform the medium to the same degree cable transformed television").

[67] *See, e.g.*, Jube Shiver, Jr., *Broadcasters Face Prospect of Takeovers*, Los Angeles Times, Part 3/Page 1 (Oct. 22, 2001) (describing how costly transition to digital television has "left many of the nation's" station owners "in debt" and made them likely targets for takeovers by larger media companies).

[68] Steve McClellan, *Small Towns, Big Problems*, Broadcasting & Cable 20 (Aug. 6, 2001) (describing the difficult economic circumstances faced by television stations in markets ranked 75th and below). The recent economic downturn has adversely impacted all segments of the television industry, from the networks to station groups. *See, e.g.,* Steve McClellan, *Bleak News Gets Even Bleaker*, Broadcasting & Cable 12 (Nov. 12, 2001) (describing steep decline in revenue and earnings for "networks and stations alike").

[69] *See, e.g.*, *The Shrinking Audience for Local TV News*, NewsLab Report (1999) (available at www.newslab.org/nonview-1.htm) (in 1995, almost three-quarters (72%) of those surveyed said they watched local news regularly, but in 1999 fewer than two-thirds (64%) fell into the category of regular viewers); Powers, at 77-78 (noting the decline in viewers of local television news, the "continual gains in ratings over the past decade" by cable, and the possibility of the Internet becoming a viable competitor for local television news).

of the Internet as a source of news and information.[70] This trend is most clear among the young; people between the ages of 18 and 24 are just "as likely to use the Internet for news and information as they are to read a newspaper." NAA Study, at 20. And even among 18-34 year olds, the audience for newspapers is "only slightly larger" than the audience for the Internet. *Id.* at 6.[71] As a result, the newspaper industry is facing a less than certain economic future, and even currently is experiencing financial stresses, including cutbacks and layoffs at newspaper companies.[72]

In light of the economic pressures facing broadcasters (particularly television stations) and newspapers in an extraordinarily competitive mass media marketplace, permitting newspaper/broadcast combinations should produce significant public interest benefits. Allowing local cross-ownership would produce cost savings and efficiencies, which, in turn, would bolster the financial condition of newspapers and broadcasters, especially in small markets, thereby

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**70** Newspaper Association of America, *Leveraging Newspaper Assets: A Study of Changing American Media Usage Habits* 4, 7 (2000) ("NAA Study").

**71** Other studies have confirmed these findings. *See, e.g., Content Intelligence Study Probes Newspaper Web Site Usage and Attitudes*, Business Wire (July 12, 2001) (new research study by Content Intelligence shows that "newspaper readership is negatively impacted by Web adoption across all age groups"); *Study Reveals 52 Percent of People Over 55 Feel Web Is More Important than Newspapers*, Business Wire (June 27, 2001) (study found that "the population that uses newspapers most – those aged 55 and older – say the Internet is a more important medium to them than newspapers in a direct comparison by a conclusive margin of 52 to 37 percent").

**72** *See, e.g.*, Mary Feeney, *Costs, Drive for Profits Shaking Up Newsrooms*, Hartford Courant at D1 (June 26, 2001) (describing cutbacks at many newspapers, which are "the product of an expanding media world, where news is available 24 hours a day on cable television and the Internet"); Margarey Beck, *Buffett: Hard Times Ahead for Papers*, AP Online (April 29, 2001) (investor Warren Buffett predicted "hard times for the newspaper industry" because the Internet "is scooping newspapers not only on news, but in cheap accessibility" and is "siphoning" off "advertising dollars").

increasing (or at least maintaining) diversity by preserving the viability of financially troubled outlets and by strengthening the news and programming services offered.

A study conducted for NAB by Bond & Pecaro in 1998 confirmed that public interest benefits would likely result from elimination of the local cross-ownership ban.[73] This study concluded that allowing newspapers and broadcast stations to combine "would have a positive economic impact upon these businesses" by increasing "operating cash flow" between "9% and 22%, depending upon market size and the configuration of the business combination." Bond & Pecaro Study, at 5. Interestingly, Bond & Pecaro found that these cross-ownership efficiencies would have the most significant benefit in proportional terms to small market outlets, "where even small cost savings can create a sharp increase in operating profits." *Id*.[74]

Thus, permitting local newspaper/broadcast cross-ownership would help maintain the financial viability of these media outlets, particularly in smaller markets where a number of outlets (especially television stations) are struggling, and should also allow these media to strengthen their operations and services offered to the public. *See* Bond & Pecaro Study, at 26. ("relaxation of the restrictions upon newspaper/television cross-ownership could have a significant impact on the efficiency of operations in smaller markets, especially for marginally

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**73** Bond & Pecaro, *A Study to Determine Certain Economic Implications Of Broadcasting/Newspaper Cross-Ownership*, attached as Appendix B to NAB Comments in MM Docket No. 98-35 (filed July 21, 1998) ("Bond & Pecaro Study").

**74** The Bond & Pecaro Study also concluded that there were clear limits to the opportunities for newspaper/broadcast combinations to generate efficiencies. Many industry executives believe that "newspaper publishing and broadcasting are distinctly different businesses" and that "certain operations are more efficiently run on a separate basis." Accordingly, it was "unlikely that any increase in profits" from combining newspaper/broadcast operations would "exceed 20%," and, even if the cross-ownership ban were lifted, these more limited economies of scale would result in a much less dramatic level of consolidation between newspapers and broadcast entities than within the radio and television industries in recent years. Bond & Pecaro Study, at 5-6.

performing newspapers and television stations").[75] Other commenters in the FCC's 1998 ownership proceeding identified in some detail the "synergies" and "economies of scale" inherent in group ownership of newspapers and broadcast outlets and how these benefits can lead directly to increased media diversity.[76]

Permitting newspaper cross-ownership of broadcast stations would also encourage newspapers with an interest in developing a local video news programming outlet to consider broadcasting rather than cable. Under the FCC's current rules, a local newspaper with such an interest would necessarily be forced to invest in a cable news service, rather than a broadcast facility, with the result of providing greater programming diversity and information sources only for those viewers who subscribe to cable. This result is contrary to the Commission's goal of improving news and public affairs programming for all citizens. Eliminating the cross-ownership ban would additionally allow grandfathered newspaper/broadcast combinations to obtain the efficiency benefits that FCC rules currently permit other broadcasters to achieve.[77]

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**75** *See also* Lorna Veraldi, *Carpooling on the Information Superhighway: The Case for Newspaper-Television Cross-Ownership*, 8 St. Thomas L. Rev. 349, 365-66, 369-70 (1996) (cost savings from allowing newspaper/broadcast combinations "could mean the difference between extinction and survival for some newspapers and television stations," and should "encourage better local service by rewarding production of local news with increased revenue from multiple uses of the same production resources").

**76** *See, e.g.*, Comments of Tribune Company in MM Docket No. 98-35 at 60-64 (filed July 21, 1998) (citing the Miami market, Tribune explained how local cross-ownership could increase diversity by allowing a lower-rated television station to initiate or improve a local newscast able to compete effectively against the newscasts of major network affiliates in the same market); Comments of A.H. Belo Corporation in MM Docket No. 98-35 at 10-15 (filed July 21, 1998) (explaining how its capacity to coordinate a broad range of media resources allowed the creation of new cable ventures and a new Washington, DC news bureau).

**77** Consider, for example, a grandfathered combination consisting of a local newspaper and a single radio station. This broadcaster would experience difficulty competing against other radio station owners who can achieve considerable operating efficiencies in their radio operations through the ownership of multiple stations in that market. Without reform of the

Available studies, moreover, indicate that operating efficiencies produced from newspaper/broadcast cross-ownership will translate into improved service to the public without materially affecting editorial diversity. The FCC's own 1975 study found that television stations owned by co-located newspapers programmed 6% more local news, 9% more local non-entertainment, and 12% more total local programming (including entertainment) than did other television stations. *Second R&O* at 1094. Another study similarly found that "television stations co-owned with a daily newspaper in the same local market broadcast 41 minutes more of local programming" in the composite week examined "than television stations that were not cross-owned." Busterna, at 65. The existing evidence additionally confirms that newspaper/broadcast combinations do not speak with one voice editorially or have a monolithic point of view on issues of public concern. Previous commenters with commonly owned newspapers and broadcast outlets have asserted that they maintain separate editorial and programming operations.[78] The Commission in fact acknowledged in 1975 that newspaper/broadcast combinations often had "separate editorial and reportorial staffs." *Second R&O* at 1089. Similarly, the FCC's newspaper proceeding of the 1940's found that newspaper-owned radio stations did "not reflect the editorial policies of the associated newspapers." Foley, at 15. Available evidence therefore shows that eliminating the newspaper cross-ownership ban will produce economic efficiencies that will benefit the public by at least maintaining, and likely improving, service to consumers, particularly in smaller markets with relatively fewer outlets.

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newspaper/cross-ownership ban, such grandfathered combinations will be prevented from achieving the efficiencies flowing from common ownership of multiple broadcast facilities.

**78** *See, e.g.*, Comments of A.H. Belo Corporation at 20-22 and Tribune Company at 38 in MM Docket No. 98-35 (filed July 21, 1998). *See also* Bond & Pecaro Study at 5 (owners of grandfathered newspaper/broadcast combinations "have almost invariably chosen to keep operations of these businesses separate").

#### b. Elimination of the Cross-Ownership Rule Will Promote the Creation of New Innovative Media Services.

The economic efficiencies generated by newspaper/broadcast cross-ownership, although significant (especially in smaller markets), are also circumscribed by differences inherent in the newspaper publishing and broadcasting businesses. *See* Bond & Pecaro Study, at 5-6; *supra* n. 75. But even beyond the efficiencies and public interest benefits produced by joint ownership of traditional newspapers and broadcast outlets, the development of new media (particularly the Internet) has created news opportunities for cooperation between newspapers and broadcasters. The harm of retaining the cross-ownership ban in the digital, interactive future will therefore increase, as it will inhibit the creation of new innovative media services by combined newspaper/broadcast entities.

A number of industry participants and observers have asserted that allowing newspapers and broadcasters to combine resources will encourage innovation and investment in new media services, including cable and the Internet. Combined newspaper/broadcast entities would be able to share their expertise and the considerable start-up costs associated with such new media ventures, thereby ultimately increasing "local news, information and advertising options" available to the public. Veraldi, at 371. Although some would no doubt contend that it would be better if such new media services were independently owned and operated, NAB submits that the expense and risk of such operations are such that they are unlikely to be created from "scratch," particularly in smaller markets. *See id*. at 368. Indeed, the new media ventures established in recent years by grandfathered newspaper/broadcast combinations show the considerable potential for wider development of innovative media services and outlets, if the cross-ownership ban were eliminated.[79]

A major study submitted to the Commission in its 1998 ownership proceeding confirmed that significant efficiencies can be derived from combining the resources of newspapers and broadcasters to create new media outlets, offering the public expanded program and content offerings.[80] This study found that the development of new media, such as the Internet (which has features of both the electronic and print media), is increasing "the benefits of cooperation between traditional newspaper and broadcast operations." Besen and O'Brien Economic Study, at 7. The Study (at 8-14) described a number of instances in which companies have pooled the resources of newspaper and television operations to offer new media services, and found that "they promise substantial benefits to both media owners and consumers of information." *Id.* at 1. The Study concluded, however, that the FCC rule prohibiting newspaper/broadcast cross-ownership "may either prevent the achievement of these benefits" flowing from combined

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**79** *See, e.g.*, Comments of Tribune Company in MM Docket No. 98-35 at 67-68, 74-75 (filed July 21, 1998) (explaining that common ownership of a newspaper and broadcast facilities in Chicago permitted Tribune to make the "significant long-term capital investment [that] lead to the creation" of a new local 24-hour cable news service, and also permitted Tribune "to invest heavily in developing its websites" where it can "enhance the news and information available to the public in yet another new format"); Comments of Chronicle Publishing Company in MM Docket No. 98-35 at 16-18 (filed July 21, 1998) (Chronicle utilized resources of its newspaper and television station in San Francisco to create the "Gate," a comprehensive local news and information website, and BayTV, a 24-hour local news and information cable channel, both of which had to be subsidized by Chronicle due to operating losses); Comments of A.H. Belo Corporation in MM Docket No. 98-35 at 12-13 (filed July 21, 1998) (Belo created Texas Cable News, a statewide cable news channel, using resources of its co-located newspaper and broadcast facilities in Dallas). NAB also observes that jointly-owned newspaper and television stations may each contribute significant expertise to new media, especially those, like online services, that are "hybrid" media exhibiting characteristics of both television and print.

**80** Stanley Besen and Daniel O'Brien, Charles Rivers Associates, Inc., *An Economic Analysis of the Efficiency Benefits from Newspaper-Broadcast Station Cross-Ownership*, attached as Appendix B to Comments of Gannett Co., Inc. in MM Docket No. 98-35 (filed July 21, 1998) ("Besen and O'Brien Economic Study").

operations, or "force newspapers and broadcasters to engage in potentially less efficient economic arrangements" (such as joint ventures) to try "to obtain such benefits." *Id*. But in either case, "consumers of information may experience higher prices, less attractive product offerings, or slower innovation than if owners of broadcast stations and newspapers were free to operate under common ownership." *Id*.[81]

As early as the 1960's, the advantages that a newspaper would bring to a new media operation were recognized as "highly significant," particularly for services "which are undeveloped and which demand a good deal of staying power and patience before their unrealized potential will bring profits."[82] In light of the recent severe financial difficulties experienced by a wide variety of communications businesses and Internet ventures, it is clear that online and other new media services will demand not only "staying power and patience," but also access to significant financial and other resources, before their "unrealized potential will bring profits." Toohey, at 54. The available evidence indicates that the combined resources of newspaper and broadcast operations will be needed to insure the full development of new, innovative media services in today's competitive marketplace. Because "the societal benefits of encouraging local news outlets to pool resources and invest in innovations have come to

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**81** The Besen and O'Brien Economic Study (at 14-22) discussed the efficiencies of common ownership in great detail, and explained why joint ventures are "inefficient substitutes for common ownership." *Id*. at 14. In particular, the Study noted that joint ventures were unlikely to be "efficient substitutes for common ownership when there is substantial uncertainty about the value of the venture, as is true for new media ventures being formed by newspapers and television stations." *Id*. For the reasons set forth in the Besen and O'Brien Economic Study, NAB does not agree with arguments that media entities have no need to be commonly owned because they may simply form joint ventures to realize operating efficiencies. *See Notice* at ¶ 25 n. 76.

**82** Toohey, at 54 (article disapproved of the FCC's policy of treating newspaper cross-ownership as even a "discrediting" factor in comparative broadcast licensing proceedings, and argued that newspaper co-ownership could be very helpful in developing the potential of UHF television).

outweigh the potential harm" of newspaper cross-ownership (Veraldi, at 364-65), the Commission should now eliminate the ban on local cross-ownership of broadcast facilities.

**V. Conclusion**

As the above discussion shows, the Commission has, despite an effort spanning 70 years, never been able to establish empirically the existence of either the competitive harms caused by local newspaper cross-ownership, or the diversity gains derived from strictly banning such cross-ownership. Given the increasingly competitive nature of today's mass media marketplace, and the outmoded or inaccurate assumptions underlying the FCC's diversity rationale for adopting the newspaper cross-ownership rule, the Commission will in all likelihood be unable in this proceeding to satisfy its burden of empirically demonstrating that the ban has served the public interest. The FCC's burden in this regard is only increased by the First Amendment implications of a rigid ban on local cross-ownership by newspaper owners – a prohibition that no longer applies to other local media entities.

But even if the Commission were somehow to establish that its "hoped for," and likely "small," gains in diversity had been realized (*Second R&O* at 1078, 1080 n.30), "countervailing considerations" now make the case for eliminating the rule "persuasive." *NCCB*, 436 U.S. at 786. At a time when both newspapers and broadcasters (especially those in smaller markets) are facing unprecedented competition and economic uncertainty, allowing their combination would help to preserve their financial viability and to maintain, or even increase, their level of service to the public. Permitting newspaper/broadcast cross-ownership would also encourage these traditional media to pool their expertise and resources to create new media services, thereby increasing the information and programming choices available to the public.

The newspaper/broadcast cross-ownership rule must, for all these reasons, be regarded as a backward-looking relic reflecting a bygone broadcast industry dominated by only three networks offering a single channel of video programming each. Regardless of its merits when adopted in 1975, the cross-ownership ban is certainly anachronistic "in the digital domain," where the "model for electronic journalism" will be "the on-line database, rather than the daily newspaper or regularly scheduled television news program."[83] The Commission therefore needs to consider seriously how its fundamental goals of insuring a diversity of viewpoints and economic competition may be best served in an "interactive, multimedia" environment when the "primary vehicle for news distribution will be a self-defining, open network, rather than traditional point-to-multipoint broadcasting or print." Bartlett, at 9. Whatever may be the Commission's ultimate resolution to issues such as these, the retention of a rigid, decades-old cross-ownership ban adopted in an analog media environment is not the appropriate response.

Respectfully submitted,

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**83** David Bartlett, *The Soul of a News Machine: Electronic Journalism in the Twenty-First Century*, 47 Fed. Comm. L.J. 1, 9 (1994).

# Independent Radio Voices
# In Radio Markets

## November 2001

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**November 29, 2001**

This report follows a similar earlier study by Dr. Mark Fratrik of NAB Research and Planning in August 1999 to gauge the number of independent radio voices available to the American public.[1] The purpose of this updated report is to determine whether radio industry consolidation in the intervening period may have altered Dr. Fratrik's earlier findings.

As with the earlier work, this study utilized the BIA Media Access Pro™ database of ownership information for all commercial radio stations as of November 2001.[2] Within each of the 286 radio markets currently measured by Arbitron, the number of stations owned by the same group was calculated. Appendix A provides a listing for each market of the number of stations owned by the concurrent number of groups within the market.[3] For example, in the Arbitron New York Metro, 14 stations are singly owned, four groups own two stations each, three groups own three stations each, etc.

The chart following Page Two of this report shows the percentage of radio stations within each market size grouping that are either: a) the only station owned within the market by that station's owner; or b) part of a two-station group within the market (*i.e.*, a local market duopoly situation). Nationally, 1,510 stations (or 23.6 percent of the 6,403 commercial stations operating in the 286 Arbitron markets) are the only stations owned within their respective market by their stations' owners; an additional 1,064 stations (16.6 percent) are part of duopolies within their respective markets. In

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[1] See Comments of NAB in MM Docket No. 99-25, Attachment A, Independent Radio Voices in Radio Markets (filed Aug. 2, 1999).

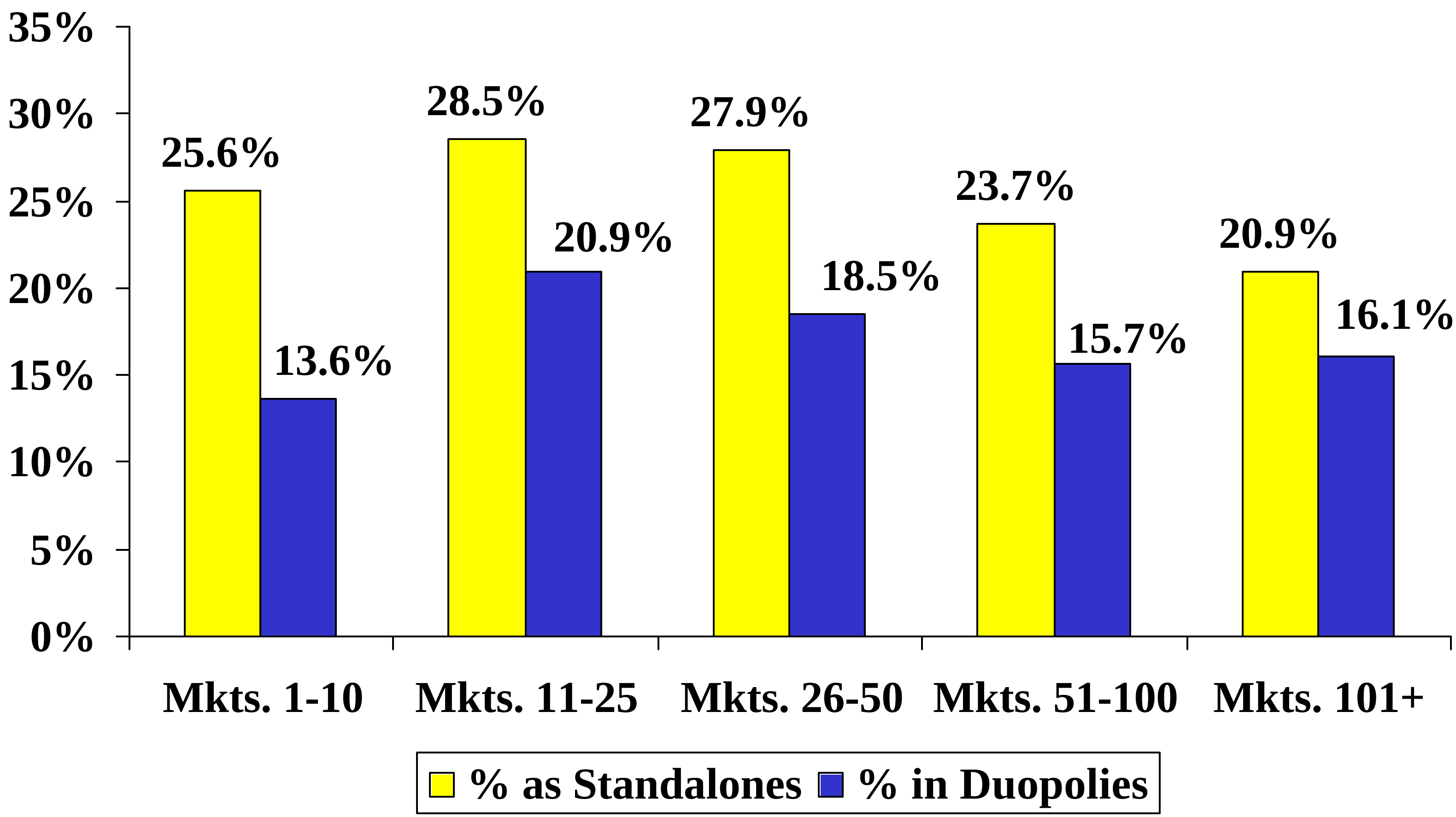
[2] Broadcast Investment Analysts, Chantilly, VA. This database is regularly updated with new radio stations and ownership changes as announced by the FCC.

[3] In twenty Arbitron Metros, there are local groups of more than eight stations. This occurs because the relevant geographic markets for local ownership regulations are not Arbitron Metros.

other words, more than 40 percent of all commercial stations in Arbitron markets are either standalone or duopoly stations. Thus, while this figure represents a decline from the approximately 50 percent figure determined by the 1999 study by Dr. Fratrik,[4] it remains the case that a large number of stations in Arbitron markets are "independent voices," in that they represent the only radio outlet, or one of only two radio outlets, controlled by the same owner in the local markets they serve.

[4] Note that the 1999 study examined only stations in the 268 markets that Arbitron served at that time, as opposed to the 286 markets considered in the current study.

# % of Local Commercial Stations that are Standalones or in Local Duopolies by Market Size Grouping




Source: Analysis of BIA Media Access Pro™ Database, Research and Planning Dept., National Association of Broadcasters

# Appendix A

Number of Groups Owning Different Numbers of Local Radio Stations by Arb. Metro

| | | ***Number of Local Radio Stations Owned*** | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Ran** | **Market Name** | **1** | **2** | **3** | **4** | **5** | **6** | **7** | **8** | **9** | **10** | **11** | **12** | **13** | **14** |
| 1 | New York | 14 | 4 | 3 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 2 | Los Angeles | 12 | 2 | 3 | 3 | 3 | 0 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 |
| 3 | Chicago, IL | 22 | 5 | 6 | 1 | 2 | 1 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 |
| 4 | San Francisco | 5 | 7 | 1 | 1 | 1 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| 5 | Philadelphia | 17 | 2 | 1 | 2 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 6 | Dallas - Ft. Worth | 11 | 5 | 3 | 0 | 1 | 3 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 7 | Detroit | 9 | 1 | 4 | 1 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 8 | Boston | 21 | 5 | 2 | 2 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 9 | Washington, DC | 12 | 1 | 2 | 2 | 2 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| 10 | Houston-Galveston | 16 | 5 | 0 | 2 | 1 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 |
| 11 | Atlanta, GA | 13 | 8 | 6 | 1 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 12 | Miami-Ft. | 14 | 3 | 2 | 2 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 13 | Puerto Rico | 39 | 10 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 1 |
| 14 | Seattle-Tacoma | 15 | 4 | 2 | 2 | 2 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| 15 | Phoenix, AZ | 12 | 3 | 2 | 1 | 2 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| 16 | San Diego | 14 | 5 | 2 | 1 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 |
| 17 | Minneapolis - St. Paul | 5 | 4 | 1 | 3 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 18 | Nassau-Suffolk | 9 | 3 | 2 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 19 | St. Louis | 14 | 7 | 1 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 20 | Baltimore, MD | 11 | 4 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 21 | Tampa-St. | 10 | 6 | 0 | 0 | 0 | 2 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| 22 | Pittsburgh, PA | 12 | 6 | 2 | 2 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 23 | Denver - Boulder | 11 | 3 | 2 | 2 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| 24 | Cleveland | 10 | 1 | 0 | 3 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 25 | Portland, OR | 10 | 6 | 1 | 0 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 26 | Cincinnati | 10 | 2 | 2 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| 27 | Sacramento, CA | 7 | 6 | 2 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 28 | San Jose | 7 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 29 | Riverside-San Bernardino | 11 | 4 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 30 | Kansas City | 9 | 2 | 1 | 3 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 |
| 31 | Milwaukee - Racine | 6 | 4 | 2 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 32 | San Antonio, TX | 13 | 4 | 0 | 0 | 0 | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 33 | Middlesex-Somerset-Union, | 3 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

| Ran | Market Name | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 34 | Columbus, OH | 5 | 6 | 3 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 35 | Providence-Warwick-Pawtu | 13 | 4 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 36 | Salt Lake City - Ogden | 9 | 4 | 0 | 1 | 2 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 37 | Charlotte-Gastonia-Rock | 15 | 3 | 1 | 1 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 38 | Norfolk-Virginia | 6 | 3 | 1 | 4 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 39 | Las Vegas, NV | 10 | 1 | 2 | 2 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 40 | Indianapolis, IN | 6 | 3 | 3 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 41 | Orlando | 8 | 3 | 2 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 42 | New Orleans | 12 | 3 | 1 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 43 | Greensboro-Winston | 11 | 4 | 1 | 2 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 44 | Nashville | 16 | 6 | 3 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 45 | Memphis | 7 | 2 | 2 | 2 | 1 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| 46 | Hartford-New | 6 | 3 | 0 | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 47 | Austin, TX | 11 | 1 | 1 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 48 | Raleigh - Durham, NC | 10 | 4 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 |
| 49 | Monmouth-Ocean, NJ | 5 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 50 | Buffalo-Niagara Falls, NY | 10 | 1 | 0 | 0 | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 51 | W. Palm Beach-Boca Raton | 6 | 2 | 0 | 1 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| 52 | Jacksonville, FL | 15 | 2 | 1 | 0 | 0 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 |
| 53 | Rochester, NY | 9 | 3 | 0 | 2 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 54 | Louisville, KY | 8 | 0 | 1 | 2 | 0 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 |
| 55 | Oklahoma City | 7 | 2 | 0 | 2 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 56 | Dayton, Ohio | 7 | 2 | 0 | 2 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| 57 | Birmingham, AL | 10 | 3 | 1 | 0 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 58 | Richmond, VA | 10 | 1 | 0 | 3 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 59 | Westchester, NY | 3 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 60 | Greenville-Spartanburg, SC | 12 | 5 | 1 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 61 | Albany-Schenectady-Troy | 6 | 4 | 2 | 1 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 62 | Tucson, AZ | 6 | 1 | 0 | 2 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 63 | Honolulu | 8 | 0 | 1 | 1 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 64 | Tulsa, OK | 6 | 4 | 2 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 65 | McAllen-Brownsville-Harli | 4 | 5 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 66 | Grand Rapids, MI | 3 | 5 | 0 | 1 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 67 | Fresno | 12 | 2 | 2 | 0 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| 68 | Wilkes Barre - Scranton | 9 | 1 | 1 | 0 | 1 | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 0 |

| Ran | Market Name | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 69 | Allentown - Bethlehem | 7 | 3 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 70 | Knoxville, TN | 11 | 3 | 0 | 2 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 71 | Akron, OH | 1 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 72 | Ft. Myers-Naples-Marco | 7 | 1 | 0 | 3 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| 73 | El Paso, TX | 4 | 3 | 2 | 1 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 74 | Albuquerque, NM | 6 | 1 | 0 | 0 | 0 | 0 | 2 | 2 | 0 | 0 | 0 | 0 | 0 | 0 |
| 75 | Omaha - Council Bluffs | 4 | 0 | 1 | 1 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| 76 | Wilmington, DE | 4 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 77 | Monterey-Salinas-Santa | 5 | 4 | 1 | 0 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 78 | Syracuse, NY | 2 | 2 | 0 | 2 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 |
| 79 | Harrisburg-Lebanon-Carlisle | 6 | 2 | 0 | 2 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 80 | Sarasota - Bradenton, FL | 4 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 81 | Toledo, OH | 7 | 3 | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| 82 | Springfield, MA | 5 | 3 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 83 | Greenville-New | 9 | 3 | 1 | 0 | 1 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 |
| 84 | Baton Rouge, LA | 5 | 0 | 0 | 0 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 85 | Little Rock, AR | 11 | 2 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 |
| 86 | Charleston, SC | 6 | 1 | 2 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| 87 | Stockton, CA | 1 | 4 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 88 | Wichita, KS | 7 | 1 | 0 | 1 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 89 | Gainesville - Ocala, FL | 4 | 4 | 0 | 0 | 2 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| 90 | Mobile, AL | 6 | 4 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 91 | Bakersfield, CA | 3 | 1 | 3 | 3 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 92 | Des Moines, IA | 3 | 2 | 0 | 0 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 93 | Columbia, SC | 5 | 1 | 1 | 2 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 94 | Spokane, WA | 4 | 2 | 0 | 0 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 95 | Daytona Beach, FL | 7 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 96 | Colorado Springs, CO | 3 | 5 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 97 | Melbourne-Titusville-Cocoa | 7 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 98 | Lakeland-Winter Haven, FL | 8 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 99 | Johnson | 12 | 3 | 0 | 0 | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 100 | Morristown, NJ | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 101 | New Haven, CT | 2 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 102 | Lafayette, LA | 5 | 3 | 1 | 0 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| 103 | Ft. Wayne, IN | 7 | 4 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

| Ran | Market Name | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 104 | Youngstown - Warren, OH | 4 | 2 | 0 | 0 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| 105 | York, PA | 3 | 4 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 106 | Lexington-Fayette, KY | 6 | 0 | 1 | 0 | 3 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 107 | Chattanooga, TN | 12 | 0 | 0 | 3 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 108 | Visalia-Tulare-Hanford | 6 | 3 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 109 | Roanoke-Lynchburg, VA | 10 | 5 | 0 | 0 | 0 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 |
| 110 | Worcester, MA | 4 | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 111 | Huntsville, AL | 11 | 0 | 1 | 2 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 112 | Lancaster, PA | 4 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 113 | Oxnard - Ventura, CA | 3 | 0 | 2 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 114 | Santa Rosa, CA | 0 | 3 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 115 | Bridgeport, CT | 6 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 116 | Augusta, GA | 4 | 1 | 1 | 0 | 1 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 |
| 117 | Lansing-East Lansing, MI | 2 | 2 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 118 | Ft. Pierce-Stuart-Vero | 3 | 1 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 119 | Portsmouth-Dover-Rocheste | 2 | 1 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 120 | Flint, MI | 4 | 2 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 121 | Jackson, MS | 10 | 2 | 1 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 122 | Madison, WI | 3 | 2 | 1 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 123 | Modesto, CA | 4 | 2 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 124 | Pensacola, FL | 7 | 2 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 125 | Boise, ID | 3 | 3 | 0 | 0 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 126 | Canton, OH | 6 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 127 | Saginaw-Bay City-Midland | 5 | 1 | 1 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 128 | Reno, NV | 4 | 2 | 0 | 2 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 129 | Fayetteville, NC | 8 | 3 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 130 | Beaumont-Port Arthur, TX | 6 | 0 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 131 | Ft Collins-Greeley, CO | 3 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 132 | Corpus Christi, TX | 6 | 2 | 2 | 2 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 133 | Reading, PA | 3 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 134 | Shreveport, LA | 4 | 2 | 0 | 1 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 135 | Quad Cities, IA-IL | 0 | 2 | 1 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 136 | Appleton - Oshkosh, WI | 3 | 2 | 2 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 137 | Biloxi-Gulfport-Pascagoula, | 6 | 1 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 138 | Stamford-Norwalk, CT | 2 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

| Ran | Market Name | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 139 | Trenton, NJ | 4 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 140 | Atlantic City - Cape May, | 4 | 1 | 1 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 141 | Peoria, IL | 1 | 1 | 0 | 1 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 142 | Newburgh-Middletown, NY | 2 | 2 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 143 | Tyler - Longview, TX | 2 | 2 | 1 | 0 | 2 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 144 | Eugene - Springfield, OR | 5 | 2 | 2 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 145 | Montgomery, AL | 5 | 0 | 2 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 146 | Ann Arbor, MI | 2 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 147 | Springfield, MO | 4 | 1 | 3 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 148 | Huntington, WV - Ashland, | 4 | 3 | 0 | 1 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 |
| 149 | Macon, GA | 3 | 0 | 1 | 1 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| 150 | Rockford, IL | 3 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 151 | Killeen-Temple, TX | 4 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 152 | Salisbury-Ocean City, MD | 9 | 1 | 0 | 0 | 0 | 0 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 |
| 153 | Palm Springs, CA | 3 | 3 | 0 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 154 | Utica - Rome, NY | 1 | 1 | 3 | 0 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 |
| 155 | Fayetteville, AR | 4 | 0 | 0 | 2 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 156 | Evansville, IN | 6 | 2 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 157 | Savannah, GA | 4 | 0 | 0 | 1 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 158 | Flagstaff-Prescott, AZ | 10 | 4 | 2 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 159 | Poughkeepsie, NY | 3 | 0 | 1 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 160 | Erie, PA | 2 | 1 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 161 | Wausau-Stevens Point, WI | 2 | 2 | 1 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 162 | Fredericksburg, VA | 1 | 2 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 163 | Tallahassee, FL | 5 | 0 | 0 | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 164 | Portland, ME | 1 | 1 | 0 | 1 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 165 | Hagerstown-Chambersburg- | 2 | 2 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 166 | South Bend, IN | 6 | 3 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 167 | Charleston, WV | 1 | 2 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 168 | New Bedford-Fall River, | 2 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 169 | Anchorage, AK | 4 | 1 | 1 | 1 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 170 | San Luis Obispo, CA | 8 | 3 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 171 | Binghamton, NY | 4 | 1 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 172 | New London, CT | 1 | 0 | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 173 | Ft. Smith, AR | 4 | 5 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

| Ran | Market Name | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 174 | Lincoln, NE | 0 | 0 | 0 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 175 | Columbus, GA | 1 | 0 | 1 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| 176 | Myrtle Beach, SC | 9 | 0 | 2 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 177 | Johnstown, PA | 5 | 2 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 178 | Wilmington, NC | 2 | 1 | 2 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 179 | Kalamazoo, MI | 2 | 1 | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 180 | Odessa - Midland, TX | 8 | 1 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 181 | Lubbock, TX | 8 | 0 | 2 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 182 | Tupelo, MS | 9 | 1 | 3 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 183 | Asheville, NC | 5 | 2 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 184 | Cape Cod, MA | 1 | 2 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 185 | Topeka, KS | 5 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 186 | Green Bay, WI | 1 | 3 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 187 | Dothan, AL | 9 | 4 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 188 | Manchester, NH | 5 | 2 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 189 | Santa Barbara, CA | 5 | 0 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 190 | Amarillo, TX | 4 | 3 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 191 | Merced, CA | 4 | 1 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 192 | Danbury, CT | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 193 | Morgantown-Clarksburg-Fai | 3 | 2 | 2 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 194 | Terre Haute, IN | 3 | 5 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 195 | Yakima, WA | 4 | 0 | 0 | 1 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 196 | Chico, CA | 0 | 1 | 0 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 197 | Santa Maria-Lompoc, CA | 5 | 2 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 198 | Waco, TX | 4 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 199 | Traverse City-Petoskey, MI | 0 | 1 | 1 | 0 | 2 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| 200 | Clarksville-Hopkinsville, | 3 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 201 | Springfield, IL | 2 | 0 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 202 | Frederick, MD | 5 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 203 | Laredo, TX | 4 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 204 | Florence, SC | 3 | 1 | 0 | 0 | 0 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 |
| 205 | Elmira-Corning, NY | 2 | 2 | 0 | 0 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 206 | Cedar Rapids, IA | 3 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 207 | Bowling Green, KY | 2 | 3 | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 208 | Alexandria, LA | 7 | 3 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

| Ran | Market Name | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 209 | Bangor, ME | 3 | 2 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 210 | Ft. Walton Beach, FL | 3 | 3 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 211 | Medford-Ashland, OR | 3 | 0 | 1 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 212 | Richland-Kennewick-Pasco, | 4 | 2 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 213 | Sioux Falls, SD | 0 | 1 | 1 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 214 | Laurel-Hattiesburg, MS | 3 | 1 | 2 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 215 | Lake Charles, LA | 5 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 216 | Fargo, ND - Moorhead, MN | 3 | 0 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 217 | Champaign, IL | 5 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 218 | Blacksburg-Christiansburg- | 4 | 0 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 219 | St. Cloud, MN | 2 | 1 | 1 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 220 | Tuscaloosa, AL | 1 | 2 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 221 | Marion-Carbondale, IL | 5 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 222 | Muskegon, MI | 3 | 1 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 223 | Redding, CA | 3 | 1 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 224 | Duluth, MN - Superior, WI | 4 | 0 | 0 | 1 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 225 | Winchester, VA | 1 | 2 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 226 | Charlottesville, VA | 3 | 0 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 227 | Dubuque, IA | 1 | 0 | 1 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 228 | Wheeling, WV | 6 | 0 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 229 | Abilene, TX | 5 | 2 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 230 | Rochester, MN | 3 | 0 | 2 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 231 | Burlington, VT | 0 | 2 | 2 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 232 | Joplin, MO | 1 | 3 | 0 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 233 | Panama City, FL | 1 | 0 | 0 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 234 | Lima, OH | 3 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 235 | Parkersburg-Marietta, | 2 | 0 | 1 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 236 | Bloomington, IL | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 237 | Bryan-College Station, TX | 5 | 0 | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 238 | Eau Claire, WI | 3 | 1 | 0 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 239 | Meadville-Franklin, PA | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 |
| 240 | Lafayette, IN | 1 | 2 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 241 | Monroe, LA | 6 | 2 | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 242 | Santa Fe, NM | 3 | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 243 | Sussex, NJ | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

| Ran | Market Name | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 244 | Waterloo-Cedar Falls, IA | 1 | 2 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 245 | Battle Creek, MI | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 246 | Pueblo, CO | 4 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 247 | Elizabeth City-Nags Head, | 5 | 1 | 1 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| 248 | State College, PA | 1 | 2 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 249 | Florence-Muscle Shoals, | 5 | 1 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 250 | Wichita Falls, TX | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 251 | St. George-Cedar City, UT | 4 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 252 | Columbia, MO | 2 | 1 | 0 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 253 | Altoona, PA | 3 | 2 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 254 | Eureka, CA | 3 | 1 | 2 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 255 | Billings, MT | 1 | 1 | 0 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 256 | Texarkana, TX-AR | 5 | 0 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 257 | Columbus-Starkville-West | 2 | 3 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 258 | Sioux City, IA | 1 | 2 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 259 | Grand Junction, CO | 1 | 1 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 260 | Williamsport, PA | 3 | 1 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 261 | Augusta-Waterville, ME | 1 | 1 | 0 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| 262 | Albany, GA | 3 | 1 | 0 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| 263 | Decatur, IL | 2 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 264 | Bluefield, WV | 3 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 |
| 265 | Mankato-New Ulm-St | 1 | 1 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 266 | Watertown, NY | 0 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 267 | Harrisonburg, VA | 1 | 3 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 268 | Rapid City, SD | 2 | 2 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 269 | San Angelo, TX | 2 | 2 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 270 | Lawton, OK | 3 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 271 | Lewiston-Auburn, ME | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 272 | Ithaca, NY | 2 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 273 | Cookeville, TN | 2 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 274 | Bismarck, ND | 2 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 275 | Grand Forks, ND-MN | 2 | 1 | 2 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 276 | Owensboro, KY | 2 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 277 | Jackson, TN | 4 | 2 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 278 | Sebring, FL | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

| Ran | Market Name | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 279 | Beckley, WV | 2 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 280 | Mason City, IA | 3 | 0 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 281 | Jonesboro, AR | 0 | 1 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 282 | Cheyenne, WY | 1 | 2 | 0 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 283 | Great Falls, MT | 2 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 284 | Meridian, MS | 5 | 1 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 285 | Brunswick, GA | 1 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 286 | Casper, WY | 2 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |